

Message

From: Boston, Beverly (CMS/CMCS); [REDACTED] b(6)
[REDACTED] b(6)
Sent: 2/22/2023 9:45:24 PM
To: Howe, Rory (CMS/CMCS); [REDACTED] b(6)
[REDACTED] b(6)
Subject: FW: FW: REMINDER DUE WEDS 2/22: Email States: CONGRATULATIONS WE ARE LIVE: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS
Attachments: EC-FM-2023-FL-01-D- Document and Information Request revisions 022223.docx; EC-FM-2023-FL-01-D Engagement Letter edits.docx

Beverly

From: Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov>
Sent: Tuesday, February 21, 2023 4:57 PM
To: Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>; Barraza, Leticia (CMS/CMCS) <Leticia.Barraza@cms.hhs.gov>
Subject: RE: REMINDER DUE WEDS 2/22: Email States: CONGRATULATIONS WE ARE LIVE: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Hi Jay/Sid,

Jay, I am not sure what was discussed, but I inserted some dates based on the timeline. Let me know if you think this is enough time for the state to send the documentation and to schedule an entrance conference.

From: Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>
Sent: Tuesday, February 21, 2023 3:12 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>; Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov>; Barraza, Leticia (CMS/CMCS) <Leticia.Barraza@cms.hhs.gov>
Subject: RE: REMINDER DUE WEDS 2/22: Email States: CONGRATULATIONS WE ARE LIVE: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Robert & Leticia – do either of you have the FL documents with the dates filled in?

From: Gavens, Jay (CMS/CMCS)
Sent: Tuesday, February 21, 2023 3:08 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>; Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov>; Barraza, Leticia (CMS/CMCS) <Leticia.Barraza@cms.hhs.gov>
Subject: RE: REMINDER DUE WEDS 2/22: Email States: CONGRATULATIONS WE ARE LIVE: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

These are the most current letters – the only difference is we will need to put dates back into them (all the yellow highlighted areas). I forget what Ricardo had put in – but we can redo.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Tuesday, February 21, 2023 3:04 PM

To: Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov>; Barraza, Leticia (CMS/CMCS) <Leticia.Barraza@cms.hhs.gov>

Subject: RE: REMINDER DUE WEDS 2/22: Email States: CONGRATULATIONS WE ARE LIVE: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Hello,

Rory did request to see the final FL letter and information request that will be release tomorrow. Please confirm that these are the latest final items.

Beverly

From: Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>

Sent: Tuesday, February 21, 2023 3:00 PM

To: Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov>; Barraza, Leticia (CMS/CMCS) <Leticia.Barraza@cms.hhs.gov>

Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Subject: RE: REMINDER DUE WEDS 2/22: Email States: CONGRATULATIONS WE ARE LIVE: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

I'm attaching the last versions that I have. I'm not sure about another folder Box.

From: Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>

Sent: Tuesday, February 21, 2023 2:55 PM

To: Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov>; Barraza, Leticia (CMS/CMCS) <Leticia.Barraza@cms.hhs.gov>

Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>

Subject: FW: REMINDER DUE WEDS 2/22: Email States: CONGRATULATIONS WE ARE LIVE: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Robert / Leticia – do you have this? Ricardo & I worked on the letter and request list using a link he set up in BOX. I go to the link but only see an old version of the letter and request list. Also adding Sid. Sid did Ricardo move it to another folder? Or do you have it?

From: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>

Sent: Tuesday, February 21, 2023 2:34 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>

Cc: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>

Subject: RE: REMINDER DUE WEDS 2/22: Email States: CONGRATULATIONS WE ARE LIVE: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Here is the MO Questions, clean version. We will send in the afternoon tomorrow just in case there are any changes that are needed.

Thanks,
Dorothy Ferguson, 214-767-6385
Director
Division of Financial Operations West, FMG, CMCS
Centers for Medicare & Medicaid Services (CMS)

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, February 21, 2023 1:29 PM
To: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>
Subject: REMINDER DUE WEDS 2/22: Email States: CONGRATULATIONS WE ARE LIVE: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Good afternoon,

I am sending an early reminder about our taxes related releases tomorrow. **Can someone share both the "final" Florida engagement letter and MO Qs here** in the string so we are clear on all final versions that will be released to states tomorrow? Also **please confirm what time you plan to issue these items.**

=====

- (4) State Follow-Up Actions Post Issuance of the Taxes CIB (**Week of 2/20**): DFOs/Jay please note the Weds 2/22 date to release the FMR engagement letter and MO questions
- On Weds 2/22 FMG CMS will issue the FL FMR engagement letter to the state
- On Weds 2/22 FMG will issue a question-set to the state in advance of the focused CMS-64 review regarding

Thanks

Beverly

From: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Sent: Friday, February 17, 2023 3:45 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>;

Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>

Subject: WEDS 2/22: Email States: CONGRATULATIONS WE ARE LIVE: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Congrats to the team – great work everyone!

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Friday, February 17, 2023 3:34 PM

To: Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>

Subject: CONGRATULATIONS WE ARE LIVE: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

See attached! Congratulations!!! WHOOT 🎉 WHOOT 🎉

Please don't forget and I will connect with you next week on:

- (4) State Follow-Up Actions Post Issuance of the Taxes CIB (**Week of 2/20**): DFOs/Jay please note the Weds 2/22 date to release the FMR engagement letter and MO questions
- On Weds 2/22 FMG CMS will issue the FL FMR engagement letter to the state
 - On Weds 2/22 FMG will issue a question-set to the state in advance of the focused CMS-64 review regarding any pooling/redistribution of funds issues.

Enjoy the long weekend and thanks for all the help to coordinate roll out!

Beverly

From: Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>

Sent: Wednesday, February 15, 2023 3:08 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>

Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Confirming for the last one #3a. States may request & CMS may approve additional time to provide a response to draft reports.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Wednesday, February 15, 2023 2:54 PM

To: Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>

Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Hello,

Please see below with highlights where additional information or confirmation is needed. Also, thanks Kristin for responding on the CIB reactive

→ [CIB Reactive Statement w/OL Comments](#). Also, I am attaching the updated MO CMS-64 review timeline...didn't we prepare a FL FMR timeline, I could not locate it and I have to step out. Lia can you send to me?

OCD Qs on FL, MO, TX taxes related actions

1. Have we issued to Florida any other FMRs , on any other subjects, since January 2021? Or is this their first FMR since that time?

Answer: Yes, on January 1/18/2022 FMG held an Entrance conference with Florida state Medicaid to conduct a review on two (2) of nine the state direct payment preprints. The field work was conducted between January 2022 and November 2022. The FMR is still ongoing as the draft report is still being prepared and not issued to the state.

1. Did we also start an FMR with TX and MO on this same issue? Or is the OIG looking into TX?

Answer: On April 14, 2022, the OIG held an Entrance conference with Texas state Medicaid to conduct an audit of the state's LPPF arrangement funded by a tax (DFO-W do you know the status of the TX LPPF OIG audit?) . Additionally, the OIG shared with FMG that their workplan for 2023 includes a planned review of "States' Use of Local Provider Participation Funds as the State Share of Medicaid Payments", however they have not yet identified the states they will review under the audit. For MO, as briefed during the 1/18/22 and 2/9/23 JC meetings, FMG will be conducting a focused review of Missouri's Inpatient and Outpatient Hospital Federal Reimbursement Allowance (FRA) tax that will be completed as part of the quarterly expenditure review of the Form CMS-64 submission for the quarter ended 12/31/2022. We will specifically look at the tax program to determine if a hold harmless arrangement exists.

- a. What is the status of TX and MO – either FMRs or OIGs? When did those start?

Answer: See above

2. I know the letter to FL is not public. Do final FMR reports, including this one, get posted on Medicaid.gov?

Answer: We do not post to Medicaid.gov, but they are FOIABLE

3. Confirm the following is accurate:

- a. CMCS anticipates to issue a draft FMR report to the state by the end of calendar year 2023. The state will then have 30 days to formally respond to the draft report. Afterwards a final report will be issued

that will incorporate the state's response to any findings, observations, and recommendations including CMS comments to the state's response. Correct – though many times states ask for additional time. **(Jay can you confirm)**

If the state's response to our findings is not sufficient, CMS will consider possible disallowances of FFP. Correct

Thanks all

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Wednesday, February 15, 2023 1:13 PM

To: Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>

Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Thanks Celestine very helpful. **Ricard and Jay** on the Florida SDP FMR, can you add the month/date in 2022 when the FMR was conducted.

OCD Qs on FL, MO, TX taxes related actions

1. Have we issued to Florida any other FMRs , on any other subjects, since January 2021? Or is this their first FMR since that time? **I don't think so, but DFO/DFP can confirm. Yes, we conduct an FMR in 2022 on two of nine the state direct payment preprints. (draft report is being prepared and has not yet been issued to the state)**
2. Did we also start an FMR with TX and MO on this same issue? Or is the OIG looking into TX? **The OIG is doing a report (I forget timing) Entrance conference with the state was April 14, 2022. Additionally, OIG 2023 has not identified the states they will review but shared with FMG their workplan for 2023 includes a planned review of States' Use of Local Provider Participation Funds as the State Share of Medicaid Payments.**
 - a. What is the status of TX and MO – either FMRs or OIGs? When did those start? **For MO – I don't think there has been an FMR on this topic. The last FMR on MO hospital tax was issued 11/25/2007 and was related to what revenues should or should not be included in the hospital tax base. MO we are performing an expanded 12/31/2022 CMS-64 review that will include the FRA tax.**
3. I know the letter to FL is not public. Do final FMR reports, including this one, get posted on Medicaid.gov? **We do not post to Medicaid.gov, but they are FOIAABLE**
4. Confirm the following is accurate:
 - a. CMCS anticipates to issue a draft FMR report to the state by the end of calendar year 2023. The state will then have 30 days to formally respond to the draft report. Afterwards a final report will be issued that will incorporate the state's response to any findings, observations, and recommendations including CMS comments to the state's response. **Correct – though many times states ask for additional time.**

If the state's response to our findings is not sufficient, CMS will consider possible disallowances of FFP. **Correct**

Beverly A. Boston

Senior Advisor & Assistant to the Group Director
Financial Management Group
Center for Medicaid and CHIP Services
Centers for Medicare & Medicaid Services

Beverly.Boston@CMS.HHS.Gov
410-786-4186

From: Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 12:21 PM
To: Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Added comment to Ricardo's input.

From: Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 12:14 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Please see the highlighted language in question 1.

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 11:54 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Looping in Sid and Ricardo on the Florida piece. I don't believe we have sent them anything yet. I will take a look at Kristin's comments.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Wednesday, February 15, 2023 11:45 AM

To: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Thanks Dorothy and Kristin, since the OCD Qs seem to work better outside of SP, we'll go with that. Jay can you confirm on Q1. Anyone else have responses to address the Qs ?

OCD Qs on FL, MO, TX taxes related actions

1. Have we issued to Florida any other FMRs, on any other subjects, since January 2021? Or is this their first FMR since that time? **I don't think so, but DFO/DFP can confirm. Yes, we conduct an FMR in 2022 on two of nine the state direct payment preprints. (draft report is being prepared and has not yet been issued to the state)**
2. Did we also start an FMR with TX and MO on this same issue? Or is the OIG looking into TX? **The OIG is doing a report for Texas that began in November 2021 and is expected to be completed sometime in 2023 (I forget timing) Entrance conference with the state was April 14, 2022**
 - a. What is the status of TX and MO – either FMRs or OIGs? When did those start? **For MO – I don't think there has been an FMR on this topic. The last FMR on MO hospital tax was issued 11/25/2007 and was related to what revenues should or should not be included in the hospital tax base. MO we are performing an expanded 12/31/2022 CMS-64 review that will include the FRA tax.**
3. I know the letter to FL is not public. Do final FMR reports, including this one, get posted on Medicaid.gov? **We do not post to Medicaid.gov, but they are FOIAABLE**
4. Confirm the following is accurate:
 - a. CMCS anticipates to issue a draft FMR report to the state by the end of calendar year 2023. The state will then have 30 days to formally respond to the draft report. Afterwards a final report will be issued that will incorporate the state's response to any findings, observations, and recommendations including CMS comments to the state's response. **Correct – though many times states ask for additional time.**
 - b. If the state's response to our findings is not sufficient, CMS will consider possible disallowances of FFP. **Correct**

Also, please review and confirm (thanks Kristin, anyone else?) where we accept the proposed changes → CIB Reactive Statement w/OL Comments

Beverly A. Boston

Senior Advisor & Assistant to the Group Director
Financial Management Group
Center for Medicaid and CHIP Services
Centers for Medicare & Medicaid Services
Beverly.Boston@CMS.HHS.Gov
410-786-4186

From: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 11:38 AM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

I added a little more below in red.

Thanks,
Dorothy Ferguson, 214-767-6385
Director
Division of Financial Operations West, FMG, CMCS
Centers for Medicare & Medicaid Services (CMS)

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 10:21 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

I didn't add anything to the sharepoint site – but some proposed responses to the OCD questions are in bold below.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Wednesday, February 15, 2023 11:03 AM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Good morning,

Please see below actions. We did receive OL edits to the CIB reactive (attached and in the SP link) and the OCD has follow-up Qs on taxes actions for FL,MO and TX. I did make the OCD aware generally that FMRs are not posted publicly and reminded them that MO will be a focused CMS-64 review. Please respond by 2pm today.

- (1) We received OL edits/comments on the **CIB reactive**. Please confirm where we accept the proposed changes → [CIB Reactive Statement w/OL Comments](#)
- (2) The OCD (Dan/Perrie) has clarifying questions on FMG FL, MO, TX tax related actions. See below and in the SP link here for collaboration → [OCD Qs on FMG - FL MO TX Taxes Related Actions](#)

OCD Qs on FL, MO, TX taxes related actions (please provide responses in SP link above)

1. Have we issued to Florida any other FMRs , on any other subjects, since January 2021? Or is this their first FMR since that time? **I don't think so, but DFO/DFP can confirm**
2. Did we also start an FMR with TX and MO on this same issue? Or is the OIG looking into TX? **The OIG is doing a report (I forget timing) Entrance conference with the state was April 14, 2022**
 - a. What is the status of TX and MO – either FMRs or OIGs? When did those start? **For MO – I don't think there has been an FMR on this topic. The last FMR on MO hospital tax was issued 11/25/2007 and was related to what revenues should or should not be included in the hospital tax base. MO we are performing an expanded 12/31/2022 CMS-64 review that will include the FRA tax.**
3. I know the letter to FL is not public. Do final FMR reports, including this one, get posted on Medicaid.gov? **We do not post to Medicaid.gov, but they are FOIAABLE**
4. Confirm the following is accurate:
 - a. CMCS anticipates to issue a draft FMR report to the state by the end of calendar year 2023. The state will then have 30 days to formally respond to the draft report. Afterwards a final report will be issued that will incorporate the state's response to any findings, observations, and recommendations including CMS comments to the state's response. **Correct – though many times states ask for additional time.**
 - b. If the state's response to our findings is not sufficient, CMS will consider possible disallowances of FFP. **Correct**

Thank you

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Sent: Tuesday, February 14, 2023 4:46 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>

Subject: RE: DUE COB TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Hi Beverly,

Please see attached some suggested minor edits to the CIB per a conversation with Dan this afternoon. Please let me know how you'd like to handle given where we are in the process.

Thanks,
Rory

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Tuesday, February 14, 2023 4:36 PM

To: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: DUE COB TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Thanks Dorothy!

Beverly

From: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>

Sent: Tuesday, February 14, 2023 4:27 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: DUE COB TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

The only edit I had is the quarterly report for MO is 12/31/2022 not 12/21/2022. I changed highlighted in yellow red font.

Thanks,

Dorothy Ferguson, 214-767-6385
Director
Division of Financial Operations West, FMG, CMCS
Centers for Medicare & Medicaid Services (CMS)

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Tuesday, February 14, 2023 3:10 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: DUE COB TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Beverly,

I think [b(5)]
[b(5)] think "unable" [b(5)]
[b(5)] [b(5)]
[b(5)] Florida, like Texas, stated that they did not plan to request the attestations because they did not believe that we or they had the authority to ask for them. I think [b(5)]
[b(5)]

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, February 14, 2023 3:20 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: DUE COB TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Hello team,

Hopefully this will be quick and I can hear back by COB today.

(1) First We are gearing up to rollout the Taxes CIB on Friday and need to make sure we're aligned on actions. Please let me know if there are any final ***tweaks*** to the final CIB here → [Final Taxes CIB](#)

(2) Please review the FMR Reactive Statement and let me know if there are edits:

On Wednesday, February 22, the Florida Deputy Secretary for Medicaid Tom Wallace will receive a letter notifying the state of the engagement by CMCS of a Financial Management Review (FMR) of Florida's managed care state directed payments (SDPs) funded by its health-related tax. The state was previously made aware of this coming FMR in a companion letter issued as part of the SDP approval in September 2022. The FMR will review the state's operation of and supervision over its Local Provider Participation Fund (LPPF) health care-related tax program as a source of Florida's non-federal share.

b(5)

b(5)

(3) ROLL-OUT – The CIB will be released on Friday by 3pm, **Rory** please confirm what time you will be contacting the FL and MO SMDs

- Friday 2/17 – **Rory Action: prior to Taxes CIB being released, FMG will contact Florida SMD regarding engaging on a Financial Management Review (FMR)** of Florida's managed care state directed payments (SDPs) funded by their health related tax. We did make the state aware in a companion letter issued as part of SDP approval in 2022.
- Friday 2/17 – **Rory Action: prior to Taxes CIB being released, FMG will contact the Missouri SMD regarding a focused CMS-64 review** of the state's inpatient/outpatient Federal Reimbursement Allowance (FRA) hospital tax and will review expenditures for quarter ended 12/31/2022 .
- Friday 2/17 - **CIB RELEASED @3pm**

(4) State Follow-Up Actions Post Issuance of the Taxes CIB (Week of 2/20): DFOs/Jay please note the Weds 2/22 date to release the FMR engagement letter and MO questions

- On Weds 2/22 FMG CMS will issue the FL FMR engagement letter to the state
- On Weds 2/22 FMG will issue a question-set to the state in advance of the focused CMS-64 review regarding any pooling/redistribution of funds issues.

Please respond by COB today with any minor tweaks to the final SMD and Reactive Statement. Rory, please let me know what time you plan to make calls on Friday.

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Wednesday, February 8, 2023 3:34 PM

To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: Release FRI 2/17: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hello,

I want to make you aware that the release of the taxes CIB has been moved to Friday 2/17. Rory will connect with the FL SMD regarding the FMR on the following Weds 2/22? Rory is that your understanding?

I will keep everyone posted on any changes.

Thanks

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Friday, February 3, 2023 1:10 PM

To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: OMB PASSBACK DUE COB MON 2/6: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

FYI, See attached Jess Schubel, White House cleared without comment.

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>

Sent: Friday, February 3, 2023 1:00 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: OMB PASSBACK DUE COB MON 2/6: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

I was wondering about that one as well. I don't think it would be appropriate to add a managed care pre-print reference here. But there might be something in section 438 of the regs.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Friday, February 3, 2023 12:52 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: OMB PASSBACK DUE COB MON 2/6: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thanks Johnathan. The citations are around documentation collection correct? It appears OL is flagging whether there is a citation around 438.6 (c) managed care pre-print collection. Can someone share the draft CIB with John Giles and Laura Snyder in DEHPG to confirm? If we can hear back by COB Mon that would help to keep us on track with the 2/10 release date.

Thank you!

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Friday, February 3, 2023 12:09 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: OMB PASSBACK DUE COB MON 2/6: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Beverly,

Most of the edits should be easy and we can do today. The only one I don't know about is the request for a reference to the "managed care" regulations as it relates to the authority of CMS to request documentation as I am not as familiar with the managed care regs. We can do everything else quickly.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Friday, February 3, 2023 11:58 AM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS)

<Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: OMB PASSBACK DUE COB MON 2/6: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Good afternoon team,

Please see attached, OMB just provided the passback on the Tax CIB. VERY, minor edits. I believe we can turn this around by COB Mon? Please confirm. We are still aiming for Friday 2/10 release.

Thanks you

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Wednesday, January 25, 2023 1:07 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS)

<Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: Taxes CIB w/ EOP Due Fri 2/3 For FRI 2/10 Release : OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hello,

See below status. Good news... Rachel/OS cleared the CIB without comment. It has been **advanced to EOP with comments/edits due on Friday 2/3 (not sure if we will be requested to do a call, but will keep you posted)**.

Health Care-Related Taxes CIB

- 1/19 – Send to IOS (Rachel) for review
- 1/24 COB – Rachel clears
- 1/24 5pm – Send to EOP (DPC, OMB) for review
- 2/3 COB – EOP sends comments
- 2/6-2/9 – FMG revises
- 2/10 – Launch

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Friday, January 20, 2023 12:37 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: CIB with OS: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hello everyone,

The release date for the CIB has moved a couple times as OC is planning for other rollouts. Please see attached, the CIB is now targeted to be **released on Friday 2/10**. It is currently under OS review with comments due on Monday; however, I am checking with Perrie on whether the below schedule will be revised given the new 2/10 release date. I will keep you posted.

- 1/19 – Send to IOS (Rachel) for Review
- 1/23 COB – Rachel sends comments
- 1/25 – FMG revises
- 1/26 9am – Send to EOP (DPC, OMB) for review
- 1/30 12pm – EOP sends comments
- 1/30 – FMG revises
- 1/31 or 2/1 – Launch (depending on comments?)

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Sent: Thursday, January 12, 2023 3:34 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: DUE WEDS 1/11: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Jonathan, I agree with your analysis below. Thanks.

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Tuesday, January 10, 2023 2:47 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: DUE WEDS 1/11: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

OL appears to be arguing [redacted] b(5)
[redacted] b(5) They are, of course, but that is not the only motivating factor in issuing
the CIB. [redacted] b(5)
[redacted] b(5)
[redacted] b(5) However, I wanted to gauge the temperature of others to see how we wanted to
approach this.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 10, 2023 2:12 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: DUE WEDS 1/11: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hello, I am adding a SP link (below) for the reactive statement with OL comments/edits (attached) to be aligned with the updated CIB and Q/As. Will these changes impact the OA briefing paper? We normally wait until we have clearance comments before going to OA, but I understand we are on a somewhat tight timeline.

OC reconciled the comments. I did move the reconciled version of the CIB and Q/As to SharePoint (below). Please see attached with separate line edits/comments for full disclosure from OL and OGC. Please make edits in the reconciled version.

[HC Related Taxes CIB](#)

[Q/As Taxes CIB](#)

[Reactive Statement - Tax CIB](#)

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Monday, January 9, 2023 4:31 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thanks, Beverly. I think some of the line edits are visible in the CIB, but many by OL are not visible. Is there a version with the line edits visible?

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Monday, January 9, 2023 3:34 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hello,

Please see attached with OL and OGC comments. Can you take a look and let me know **when you'll be able to turn around clean versions?** As a reminder, next step is R2 CMS and the OCD will concurrently send it directly to Rachel in IOS, Sara Sills in OMB (Rory I did mention to Perrie that we shared and advanced copy with OMB), and Jessica Schubel in DPC to review.

Thanks

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Friday, January 6, 2023 4:29 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Looks good. I will circle back if there are any questions. Thank you all.

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Sent: Friday, January 6, 2023 4:08 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

My edits are in and this is good to go. Thanks, all!

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Friday, January 6, 2023 2:47 PM

To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thanks Kristin,

Based on your comments would the below edits work? Please others review Kristin's comments in the attached and make edits here → [reactive that was drafted by OC](#) by COB today.

b(5)

Thanks

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>

Sent: Friday, January 6, 2023 2:19 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

I made some suggestions.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Friday, January 6, 2023 1:33 PM

To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS)

<Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thanks Kristin,

Status update: OCD confirmed we are still aiming for 1/23. OCD is awaiting OGC comments (if any) on the CIB. Once the CIB clears Comms, the OCD will send it directly to Rachel in IOS, Sara Sills in OMB (Rory I did mention to Perrie that we shared and advanced copy with OMB), and Jessica Schubel in DPC to review.

In addition due COB today - Here is the reactive that was drafted by OC for the CIB. **Please let me know if you have edits to the reactive statement developed by OC.**

Thanks

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>

Sent: Wednesday, January 4, 2023 9:45 AM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS)

<Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thanks Beverly. I defer to others but don't think the edits are helpful for the CIB. It was carefully crafted language. I would not recommend accepting these changes.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Wednesday, January 4, 2023 8:46 AM

To: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS)

<Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: CIB Health Care Related Taxes and Hold Harmless Arrangements

Good morning and HNY! 🍷

Looping others. All Comms clearance comments on the CIB are due from commenters on 1/5. Please hold the attached FCHCO comments until all other comments on the CIB are received. **I will need clean and redlined comments once all comments are received.**

In addition due 12pm tomorrow 1/5 - Here is the reactive that was drafted by OC for the CIB. Please let me know if you have edits to the reactive statement developed by OC.

Thank you

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, January 3, 2023 3:57 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Cc: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: FW: FOR CLEARANCE: Internal Q&As for CIB Health Care Related Taxes and Hold Harmless Arrangements

Hi, Beverly and Lia. Would you mind making should make sure the attached track changes based on a few suggestions from Tim make it into the final version? Please let me know if you have any questions.

Thanks,
Rory

From: Howe, Rory (CMS/CMCS)
Sent: Tuesday, January 3, 2023 3:49 PM
To: Engelhardt, Tim (CMS/FCHCO) <Tim.Engelhardt@cms.hhs.gov>
Subject: RE: FOR CLEARANCE: Internal Q&As for CIB Health Care Related Taxes and Hold Harmless Arrangements

Hi Tim,

Happy New Year. I appreciate you taking the time to review and to comment. Thanks for catching the typo and for highlighting where we could be more precise to avoid misinterpretations. We'll update the draft CIB to address the comments/edit. Thanks again.

Rory

From: Engelhardt, Tim (CMS/FCHCO) <Tim.Engelhardt@cms.hhs.gov>
Sent: Tuesday, January 3, 2023 3:16 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: FW: FOR CLEARANCE: Internal Q&As for CIB Health Care Related Taxes and Hold Harmless Arrangements

Rory –

I understand the CIB was FYI-only, but I feel compelled to share with you a few things in the attached. I was only reading it to try to learn the policy, but there is a place in the CIB where a reader could easily take away the wrong message. And a typo.

Tim Engelhardt (he/him)
Medicare-Medicaid Coordination Office
Centers for Medicare & Medicaid Services
202.690.6277

INFORMATION NOT RELEASABLE TO THE PUBLIC UNLESS AUTHORIZED BY LAW: This information has not been publicly disclosed and may be privileged and confidential. It is for internal government use only and must not be disseminated, distributed, or copied to persons not authorized to receive the information. Unauthorized disclosure may result in prosecution to the full extent of the law.

From: CMS CLEARANCES <CLEARANCES@cms.hhs.gov>

Sent: Tuesday, January 3, 2023 1:35 PM

To: Worstell, Megan (CMS/OFM) <Megan.Worstell@cms.hhs.gov>; Czajkowski, John (CMS/OFM) <John.Czajkowski@cms.hhs.gov>; Plater, Morris (CMS/OFM) <Morris.Plater@cms.hhs.gov>; Stokes-Murray (He/Him), Heinz (CMS/OFM) <KHeinz.Stokes-Murray@cms.hhs.gov>; Tierney, Janet (CMS/OFM) <Janet.Tierney@cms.hhs.gov>; Kelsey, Ashley (CMS/OFM) <Ashley.Kelsey@cms.hhs.gov>; Carmichael, Wanda (CMS/OFM) <Wanda.Carmichael@cms.hhs.gov>; Benns, Antoinette (CMS/OFM) <Antoinette.Benns@cms.hhs.gov>; Richter (she/her), Liz (CMS/CM) <elizabeth.richter@cms.hhs.gov>; Rice, Cheri (CMS/CM) <Cheri.Rice@cms.hhs.gov>; Ahern, Robert (CMS/CM) <Robert.Ahern@cms.hhs.gov>; Mays, Beth (CMS/CM) <Beth.Mays@cms.hhs.gov>; Blackford (she/her), Carol (CMS/CM) <Carol.Blackford@cms.hhs.gov>; Pequigney, Susan (CMS/CM) <Susan.Pequigney@cms.hhs.gov>; Farran, Patti (CMS/CM) <Patti.Farran@cms.hhs.gov>; Beder, Victoria (CMS/CM) <Victoria.Beder@cms.hhs.gov>; Feaster, Simone (CMS/CM) <simone.feaster@cms.hhs.gov>; Uebersax, Julie (CMS/CM) <Julie.Uebersax@cms.hhs.gov>; Held, William (CMS/CM) <William.Held@cms.hhs.gov>; OToole, Meghan (CMS/OA) <[Meghan.OToole1@cms.hhs.gov](mailto: Meghan.OToole1@cms.hhs.gov)>; Labonte, Christiane (CMS/CM) <Christiane.Labonte@cms.hhs.gov>; Martin, Kristi (CMS/CM) <Kristina.Martin@cms.hhs.gov>; Turco, Molly (CMS/CM) <Molly.Turco@cms.hhs.gov>; Jacobs, Douglas (CMS/CM) <Douglas.Jacobs@cms.hhs.gov>; Hunter, Leah (CMS/CM) <Leah.Hunter@cms.hhs.gov>; CMS CPI Clearance Box <CPI_Clearance_Box@cms.hhs.gov>; Hart, Bradley (CMS/CPI); Lindstrom, Jennifer (CMS/CPI) <Jennifer.Lindstrom@cms.hhs.gov>; Mills, George (CMS/CPI) <george.mills@cms.hhs.gov>; Brentzel, Ingrid (CMS/CPI) <Ingrid.Brentzel@cms.hhs.gov>; Graham, John (CMS/CPI) <John.Graham@cms.hhs.gov>; Wilson-Coe, Tomiko (CMS/CPI) <Tomiko.Wilson-Coe@cms.hhs.gov>; Allen, Nakia (CMS/CPI) <nakia.allen-mcgee@cms.hhs.gov>; Ahmad, Namirah (CMS/CPI) <Namirah.Ahmad@cms.hhs.gov>; Barkai, Melissa (CMS/CPI) <Melissa.Barkai@cms.hhs.gov>; Coates, Nikita (CMS/CPI) <Nikita.Coates@cms.hhs.gov>; Mitchell, Dashe (CMS/CPI) <Dashe.Mitchell@cms.hhs.gov>; Tott, Karen (CMS/CPI) <Karen.Tott@cms.hhs.gov>; Stevenson, Bryant (CMS/CPI) <bryant.stevenson@cms.hhs.gov>; Oelschlaeger, Allison (CMS/OEDA) <Allison.Oelschlaeger@cms.hhs.gov>; Shatto, Andrew (CMS/OEDA) <Andrew.Shatto@cms.hhs.gov>; Hitchcock, Katherine (CMS/OEDA) <Katherine.Hitchcock@cms.hhs.gov>; Harper, Bernice (CMS/OEDA) <Bernice.Harper@cms.hhs.gov>; CMS Front Office - CCIIO Clearances <FrontOffice-CCIIOClearances@cms.hhs.gov>; Wu (he/him), Jeff (CMS/CCIIO) <Jeff.Wu@cms.hhs.gov>; Wilson, Lisa (CMS/CCIIO) <lisa.wilson@cms.hhs.gov>; Oconnor, Nancy (CMS/OPOLE) <Nancy.OConnor@cms.hhs.gov>; Rosta (she/her), Sara (CMS/CCIIO) <Sara.Rosta@cms.hhs.gov>; Arapi, Leslie (CMS/OPOLE) <Leslie.Arapi@cms.hhs.gov>; Frimpong, Janny (CMS/CCIIO) <Janny.Frimpong@cms.hhs.gov>; Brooks, Kiahana (CMS/CCIIO) <Kiahana.Brooks@cms.hhs.gov>; Cantwell, Kathleen (CMS/OSORA) <Kathleen.Cantwell@cms.hhs.gov>; Garcia, Vanessa (CMS/OSORA) <Vanessa.Garcia@cms.hhs.gov>; Jackson, Marilyn (CMS/OSORA) <Marilyn.Jackson@cms.hhs.gov>; Barnett Sherrill (She/Her), Alexis (CMS/OSORA) <Alexis.Sherrill@cms.hhs.gov>; Taylor, Isabel (CMS/OSORA) <Isabel.Taylor@cms.hhs.gov>; Palmer, Erin (CMS/OSORA) <erin.palmer@cms.hhs.gov>; Unruh, Patti (CMS/OSORA) <Patti.Unruh@cms.hhs.gov>; Khan, Farooq (CMS/OSORA) <Farooq.Khan@cms.hhs.gov>; Lafferty, Tiffany (CMS/OSORA) <Tiffany.Lafferty@cms.hhs.gov>; Parham, William (CMS/OSORA) <WILLIAM.PARHAM@cms.hhs.gov>; Jones, Martique (CMS/OSORA) <Martique.Jones@cms.hhs.gov>; Phan, Thomas (CMS/OSORA) <Thomas.Phan@cms.hhs.gov>; Edmondson-Parrott, Michele (CMS/OSORA) <michele.edmondsonparrott@cms.hhs.gov>; Miller, Ruth-Sam (CMS/OSORA) <Ruth.Miller@cms.hhs.gov>; Lilley, Edward (CMS/OSORA) <Edward.Lilley@cms.hhs.gov>; McLemore, Monica (CMS/OSORA) <Monica.McLemore@cms.hhs.gov>; Witherspoon, Tia (CMS/OSORA) <Tia.Witherspoon@cms.hhs.gov>; CMS OIT Correspondence <OITCorrespondence@cms.hhs.gov>; Howden, Catherine (CMS/OC) <Catherine.Howden@cms.hhs.gov>; Tross, Jason (CMS/OC) <Jason.Tross@cms.hhs.gov>; Wagner, Rachel (CMS/OC) <Rachel.Wagner@cms.hhs.gov>; Fortin-Garcia, Carolina (CMS/OC) <Carolina.Fortin-Garcia@cms.hhs.gov>; Boykin, Jibril (CMS/OC) <Jibril.Boykin@cms.hhs.gov>; Dinges, Enrico (CMS/OC) <Eric.Dinges@cms.hhs.gov>; Joy-Bush, Keya (CMS/OC) <keya.joy-bush@cms.hhs.gov>; Martin, Patrice (CMS/OC) <Patrice.Martin@cms.hhs.gov>; Mengel, Jonathan (CMS/OC) <Jonathan.Mengel@cms.hhs.gov>; Myers, Gregory (CMS/OC) <Gregory.Myers@cms.hhs.gov>;

Smith, Aaron (CMS/OC) <Aaron.Smith@cms.hhs.gov>; Sokol, Lisa (CMS/OC) <Lisa.Sokol@cms.hhs.gov>; Thorn, Raymond (CMS/OC) <Raymond.Thorn@cms.hhs.gov>; Washington, April (CMS/OC) <April.Washington@cms.hhs.gov>; Trucil, Daniel (CMS/OC) <Daniel.Trucil@cms.hhs.gov>; Ryan, Lorraine (CMS/OC) <lorraine.ryan@cms.hhs.gov>; Schinderle, Elizabeth (CMS/OC) <elizabeth.schinderle@cms.hhs.gov>; Mahoney, Christine (CMS/OC) <Christine.Mahoney@cms.hhs.gov>; Brager, Mark (CMS/OC) <Mark.Brager@cms.hhs.gov>; Clemens, Kristen (CMS/OC) <Kristen.Clemens@cms.hhs.gov>; Reeves, Alison (CMS/OC) <Alison.Reeves@cms.hhs.gov>; Walker, Chantel (CMS/OC) <Chantel.Walker@cms.hhs.gov>; Chambers, Gwendolyn (CMS/OC) <Gwendolyn.Chambers@cms.hhs.gov>; Gross, Jessica (CMS/OC) <Jessica.Gross@cms.hhs.gov>; Alexander, Bruce (CMS/OC) <Bruce.Alexander@cms.hhs.gov>; Wallace, Mary (CMS/OC) <Mary.Wallace@cms.hhs.gov>; Aldana, Karen (CMS/OC) <Karen.Aldana@cms.hhs.gov>; Bradley, Tasha (CMS/OC) <Tasha.Bradley1@cms.hhs.gov>; Toomey, Mary (CMS/OC) <Mimi.Toomey@cms.hhs.gov>; Perkins, Valerie (CMS/OC) <Valerie.Perkins@cms.hhs.gov>; Williams, Tamika (CMS/OC) <Tamika.Williams@cms.hhs.gov>; Patrick, Michele (CMS/OC) <Michele.Patrick@cms.hhs.gov>; Mazzone, Maria (CMS/OC) <Maria.Mazzone@cms.hhs.gov>; Pressley, Erin (CMS/OC) <Erin.Pressley@cms.hhs.gov>; Miner, Amy (CMS/OC) <Amy.Minor@cms.hhs.gov>; Harmatuk, Frances (CMS/OC) <Frances.Harmatuk@cms.hhs.gov>; Reilly, Megan (CMS/OC) <Megan.Reilly@cms.hhs.gov>; Gordon, Erin (CMS/OC) <Erin.Gordon@cms.hhs.gov>; Franklin, Julie (CMS/OC) <Julie.Franklin@cms.hhs.gov>; Winer, Rachel (CMS/OC) <Rachel.Winer@cms.hhs.gov>; Dinicolo, Kelly (CMS/OC) <Kelly.Dinicolo@cms.hhs.gov>; Shaham, Lauren (CMS/OC) <Lauren.Shaham1@cms.hhs.gov>; Walen, Alyssa (CMS/OC) <Alyssa.Walen@cms.hhs.gov>; Jenkins, Courtney (CMS/OC) <Courtney.Jenkins@cms.hhs.gov>; Broccolino, Michele (CMS/OC) <Michele.Broccolino@cms.hhs.gov>; Booth, Jon (CMS/OC) <Jon.Booth@cms.hhs.gov>; Hennessy, Amy (CMS/OC) <Amy.Hennessy@cms.hhs.gov>; Costello, Stefanie (CMS/OC) <Stefanie.Costello@cms.hhs.gov>; McIver, LaShawn (CMS/OMH) <LaShawn.McIver@cms.hhs.gov>; Finch, Wanda (CMS/OMH) <Wanda.Finch@cms.hhs.gov>; Gentry, Pamela (CMS/OMH) <Pamela.Gentry@cms.hhs.gov>; Peddicord-Austin, Ashley (CMS/OMH) <Ashley.Peddicord-Austin@cms.hhs.gov>; Young, Brian (CMS/OMH) <Brian.Young@cms.hhs.gov>; Fleisher, Lee (CMS/CCSQ) <Lee.Fleisher@cms.hhs.gov>; Ling, Shari (CMS/CCSQ) <Shari.Ling@cms.hhs.gov>; Schreiber, Michelle (CMS/CCSQ) <Michelle.Schreiber@cms.hhs.gov>; Iwugo, Jeneen (CMS/CCSQ) <jeneen.iwugo@cms.hhs.gov>; Spence, Ashley (CMS/CCSQ) <Ashley.Spence@cms.hhs.gov>; Jenkins, Courtney (CMS/OC) <Courtney.Jenkins@cms.hhs.gov>; Hakim, Alyson (Aly) (CMS/CMCS) <Alyson.Hakim@cms.hhs.gov>; Appleton, Paige (CMS/CCSQ) <Paige.Appleton@cms.hhs.gov>; Moody-Williams, Jean (CMS/CCSQ) <jean.moodywilliams@cms.hhs.gov>; Michael, Sean (CMS/CCSQ) <sean.michael@cms.hhs.gov>; Engelhardt, Tim (CMS/FCHCO) <Tim.Engelhardt@cms.hhs.gov>; Vitolo, Sara (CMS/FCHCO) <Sara.Vitolo@cms.hhs.gov>; Perry, Nicole (CMS/FCHCO) <Nicole.Perry@cms.hhs.gov>; Oconnor, Nancy (CMS/OPOLE) <Nancy.OConnor@cms.hhs.gov>; Hammarlund, John (CMS/OPOLE) <john.hammarlund@cms.hhs.gov>; Collura, Paul (CMS/OPOLE) <Paul.Collura@cms.hhs.gov>; Thomas, Pam (CMS/OPOLE) <Pam.Thomas@cms.hhs.gov>; Stupica-Dobbs, Kim (CMS/OPOLE) <Kimberly.Stupica-Dobbs@cms.hhs.gov>; Hannigan, John (CMS/OPOLE) <John.Hannigan@cms.hhs.gov>; Kerrigan, Maureen (CMS/OPOLE) <Maureen.Kerrigan@cms.hhs.gov>; Balch (she/her), Elissa (CMS/OPOLE) <Elissa.Balch@cms.hhs.gov>; Sutton, Erin (CMS/OPOLE) <erin.sutton2@cms.hhs.gov>; Spitalnic, Paul (CMS/OACT) <paul.spitalnic@cms.hhs.gov>; Cooper, Jill (CMS/OACT) <Jill.Cooper@cms.hhs.gov>; Croston, Diane (CMS/OACT) <Diane.Croston@cms.hhs.gov>; CMS OLClearances <OLClearances@cms.hhs.gov>; Woronoff, Arielle (CMS/OL) <Arielle.Woronoff@cms.hhs.gov>; Boulanger, Jennifer (CMS/OL) <Jennifer.Boulanger@cms.hhs.gov>; Keene, Danyail (CMS/OL) <Danyail.Keene@cms.hhs.gov>; Druckman, Jennifer (CMS/OL) <Jennifer.Druckman@cms.hhs.gov>; Oakes, Meghan (CMS/OL) <Meghan.Oakes@cms.hhs.gov>; Newlin, Manda (CMS/OL) <Manda.Newlin@cms.hhs.gov>; Stahlman, Mary Ellen (CMS/OL) <MaryEllen.Stahlman@cms.hhs.gov>; Martino, Maria (CMS/OL) <Maria.Martino@cms.hhs.gov>; Mote, Katelyn (CMS/OL) <Katelyn.Mote@cms.hhs.gov>; Khalid, Zunaira (CMS/OL) <Zunaira.Khalid@cms.hhs.gov>; Ryan, Dan (CMS/OL) <Dan.Ryan@cms.hhs.gov>; Upchurch, Talaiya (CMS/OL) <Talaiya.Upchurch@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>; Minor, Nevena (CMS/OL) <Nevena.Minor@cms.hhs.gov>; Estrada, Abuko (CMS/OL); Barry, Meg (CMS/CMCS) <meg.barry@cms.hhs.gov>; Dawson, Andrew (CMS/OL) <Andrew.Dawson@cms.hhs.gov>; Lewandowski, David (CMS/OL) <David.Lewandowski@cms.hhs.gov>; Miner, Imani (CMS/OL) <Imani.Minor@cms.hhs.gov>; Goto, Meinan (CMS/OL) <Meinan.Goto@cms.hhs.gov>; Greene, Mary (CMS/OAGM) <Mary.Greene@cms.hhs.gov>; Brown, Michelle (CMS/OAGM) <Michelle.Brown@cms.hhs.gov>; Amburgey, Louise (CMS/OAGM) <Louise.Amburgey1@cms.hhs.gov>; Waskiewicz, Beth (CMS/OAGM) <beth.waskiewicz@cms.hhs.gov>; Tatum, Kimberly (CMS/OAGM) <Kimberly.Tatum@cms.hhs.gov>; Calabro, Alice (CMS/OAGM) <Alice.Calabro@cms.hhs.gov>; Kelly, Ryan (CMS/OAGM) <Ryan.Kelly@cms.hhs.gov>; Hazelwood, Antoinette (CMS/OAGM) <Antoinette.Hazelwood@cms.hhs.gov>; Schmitz, Stefanie (CMS/OAGM)

<Stefanie.Schmitz1@cms.hhs.gov>; Lanasa, Michele (CMS/OAGM) <Michele.Lanasa@cms.hhs.gov>; Eberhart, Christina (CMS/OAGM) <Christina.Eberhart2@cms.hhs.gov>; Dionne.Brown@cms.hhs.gov; Rippey (she/her), Catherine (CMS/OHI) <Catherine.Rippey@cms.hhs.gov>; Hamilton, Andrea (CMS/OHI) <andrea.hamilton@cms.hhs.gov>; Brauer (he/him), Randy (CMS/OHI) <Randy.Brauer@cms.hhs.gov>; Slade, James (CMS/OHI) <James.Slade@cms.hhs.gov>; Hernandez (she/her), Laura (CMS/OHI) <Laura.Hernandez@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Harris, Monica (CMS/CMCS) <Monica.Harris@cms.hhs.gov>; Harshman, Sara (CMS/CMCS) <Sara.Harshman@cms.hhs.gov>; Stegmaier, Jason (CMS/CMCS) <Jason.Stegmaier@cms.hhs.gov>; Whelan, Ellen-Marie (CMS/CMCS) <EllenMarie.Whelan@cms.hhs.gov>; Miller, Courtney (CMS/CMCS) <Courtney.Miller@cms.hhs.gov>; Janu, Shanna (CMS/CMCS) <Shanna.Janu@cms.hhs.gov>; Dorsey, Jennifer (CMS/CMCS) <jennifer.dorsey@cms.hhs.gov>; Fowler (she/her), Liz (CMS/CMMI) <Liz.Fowler@cms.hhs.gov>; Tabe-Bedward, Arrah (CMS/CMMI) <arrah.tabebeward@cms.hhs.gov>; Rushton, Andrew (CMS/CMMI) <Andrew.Rushton@cms.hhs.gov>; Dziak, Kathleen (CMS/CMMI) <Kathleen.Dziak@cms.hhs.gov>; Cardin, Megan (CMS/CMMI) <Megan.Cardin@cms.hhs.gov>; OToole, Meghan (CMS/OA) <Meghan.OToole1@cms.hhs.gov>; Wells, Carrie (CMS/CMMI) <Carrie.Wells1@cms.hhs.gov>; Barberi, Jade (CMS/CMMI) <Jade.Russell@cms.hhs.gov>; Doherty, Theresa (CMS/CMMI) <Theresa.Doherty@cms.hhs.gov>; Anderson, Jessica (CMS/CMMI) <jessica.anderson@cms.hhs.gov>; McGinley, Katelynn (CMS/CMMI) <katelynn.mcginley@cms.hhs.gov>; Greene, Mary (CMS/OBRHI) <Mary.Greene1@cms.hhs.gov>; McClain, Rena (CMS/OBRHI) <Rena.McClain1@cms.hhs.gov>; Jackson, Michelle (CMS/CPI) <Michelle.Jackson@cms.hhs.gov>; Ratchford, Deneen (CMS/OAGM) <Deneen.Ratchford@cms.hhs.gov>; St. Louis, Aileah (CMS/OC) <Aileah.St.Louis@cms.hhs.gov>; Blum, Jonathan (CMS/OA) <Jonathan.Blum@cms.hhs.gov>; Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>; Harris, Will (CMS/OA) <William.Harris@cms.hhs.gov>; Boulanger, Jennifer (CMS/OL) <Jennifer.Boulanger@cms.hhs.gov>; Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>; OToole, Meghan (CMS/OA) <Meghan.OToole1@cms.hhs.gov>; Richardson (she/her), Erin (CMS/OA) <Erin.Richardson@cms.hhs.gov>; Woronoff, Arielle (CMS/OL) <Arielle.Woronoff@cms.hhs.gov>; Yao, Kristiana (CMS/OA) <Kristiana.Yao1@cms.hhs.gov>; CMS-CQISCOCMO@ees.hhs.gov; Ling, Shari (CMS/CCSQ) <Shari.Ling@cms.hhs.gov>; Wild, Richard (CMS/CCSQ) <Richard.Wild@cms.hhs.gov>; Nilasena, David (CMS/CCSQ) <David.Nilasena@cms.hhs.gov>; Wolfe, Ashby (CMS/CCSQ) <Ashby.Wolfe1@cms.hhs.gov>; Fisher, Barbara (HHS/OGC) <Barbara.Fisher@HHS.GOV>; Rainer, Melanie Fontes (OS/OCR) <Melanie.Rainer@hhs.gov>; Smalley, Elizabeth (HHS/ASPA) <Elizabeth.Smalley@hhs.gov>; Levin, Michael (HHS/ASPA) <Michael.Levin@hhs.gov>; HHSPress@hhs.gov; releases@hhs.gov

Cc: CMS CLEARANCES <CLEARANCES@cms.hhs.gov>; Dinges, Enrico (CMS/OC) <Eric.Dinges@cms.hhs.gov>

Subject: FOR CLEARANCE: Internal Q&As for CIB Health Care Related Taxes and Hold Harmless Arrangements

Please copy **Enrico Dinges** and on **ALL** responses pertaining to this item when replying to CMS Clearances.

Please see attached internal qas for review. The informational bulletin is FYI ONLY. Thank you.

Comments Due: 1:00 PM ET Thursday, January 5, 2023

All: For your review and input. Concurrent HHS/CMS review.

Title: Internal Q&As for CMCS informational bulletin on health care related taxes and hold harmless arrangements.

Agency/Office: CMCS

Subject/Description: CMS will release an informational bulletin on health care related taxes and hold harmless arrangements involving the redistribution of Medicaid payments. This informational bulletin responds in part to questions CMS has received regarding the statutory and regulatory requirements applicable to health care-related taxes, including in connection with proposals to implement or renew Medicaid managed care state directed payments (SDPs). There will be a reactive statement, listserv message, and internal questions-and-answers for this item.

COMMs Materials for Rollout: Internal Q&As

Deadline for COMMS Clearance comments: Thursday, January 5 by 1:00 PM

Requested Release date: 2/7/2023

INFORMATION NOT RELEASABLE TO THE PUBLIC UNLESS AUTHORIZED BY LAW:

This information has not been publicly disclosed and may be privileged and confidential. It is for internal government use only and must not be disseminated, distributed, or copied to persons not authorized to receive the information. Unauthorized disclosure may result in disciplinary action or prosecution to the full extent of the law.

Message

From: Boston, Beverly (CMS/CMCS); [redacted] b(6)
[redacted] b(6)
Sent: 2/23/2023 2:34:40 PM
To: Endelman (he/him), Jonathan (CMS/CMCS); [redacted] b(6)

[Large redacted area containing the text b(6)]

; Sarah Whitehouse
Administrative Group
Campbell-OConnor,
]; Snyder, Laura
Davis, Lovie
Coizias, Alex (CMS/CMCS)
Arnold, Charlie
Clark, Jennifer
Cuno, Richard
; Fan, Kristin
Goldstein, Stuart
Heitt, Melissa
Mosley, Elle (CMS/CMCS)
Schoonover, Matthew
]; Holligan, Ricardo
Bavens, Jay (CMS/CMCS)
owell, Eric (CMS/CMCS)
Ferguson, Dorothy
; Goldstein, Stuart
Cuno, Richard
; Mosley, Elle
Fan, Kristin (CMS/CMCS)
Clark, Jennifer
Arnold, Charlie
Curry, Celestine
mble, Davida
Sebree, Fredrick

b(6)

CC:

Snyder, Laura
Lane, Robert
; Barraza, Leticia
Silanskis, Jeremy
Maccarroll, Amber

Subject: RE: RE: FL Proposal D Amendment 2020-2021-just FYI
Attachments: FW: FW: Information: CMS 2023 Florida Financial Management Review Engagement Letter

Good morning Team,

Looping others... the FL FMR documents were updated and re-sent to the state. Please delete all other versions and use the attached as final. DFO-E can provide the MS Word versions if needed.

Thanks Johnathan for cc-ing me.

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Thursday, February 23, 2023 9:26 AM
To: Sarah Whitehouse <Whitehouse-Sarah@norc.org>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>; Campbell-OConnor, Aimee (CMS/CMCS) <Aimee.Campbell-OConnor1@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Davis, Lovie (CMS/CMCS) <Lovie.Davis@cms.hhs.gov>; Loizias, Alex (CMS/CMCS) <Alexandra.Loizias@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Powell, Eric (CMS/CMCS) <Eric.Powell@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>; Sebree, Fredrick (CMS/CMCS) <Fredrick.Sebree@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Subject: RE: FL Proposal D Amendment 2020-2021-just FYI

Hello everyone. The engagement letter and the document and information request for the 2023 Florida FMR went out yesterday. I just wanted to make sure everyone knew and had a copy. Please see attached.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Sarah Whitehouse <Whitehouse-Sarah@norc.org>
Sent: Thursday, February 23, 2023 9:21 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>; Campbell-OConnor, Aimee (CMS/CMCS) <Aimee.Campbell-OConnor1@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Davis, Lovie (CMS/CMCS) <Lovie.Davis@cms.hhs.gov>; Loizias, Alex (CMS/CMCS) <Alexandra.Loizias@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>
Subject: RE: FL Proposal D Amendment 2020-2021-just FYI

Thanks, Jonathan!

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 22, 2023 4:50 PM
To: Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>; Campbell-OConnor, Aimee (CMS/CMCS) <Aimee.Campbell-OConnor1@cms.hhs.gov>; Sarah Whitehouse <Whitehouse-Sarah@norc.org>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Davis, Lovie (CMS/CMCS) <Lovie.Davis@cms.hhs.gov>; Loizias, Alex (CMS/CMCS) <Alexandra.Loizias@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>
Subject: RE: FL Proposal D Amendment 2020-2021-just FYI

NOTE: This email originated outside NORC.

Hello Sid, Ricardo, and Sarah,

We sent out the questions to Missouri this afternoon. The issue is similar, i.e. possible pooling and redistribution of Medicaid taxes to hold providers harmless for health care-related taxes, so we thought it would be good to share with you as well.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)

Sent: Friday, February 17, 2023 7:10 AM

To: Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>; Campbell-OConnor, Aimee (CMS/CMCS) <Aimee.Campbell-OConnor1@cms.hhs.gov>; 'Sarah Whitehouse' <Whitehouse-Sarah@norc.org>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Davis, Lovie (CMS/CMCS) <Lovie.Davis@cms.hhs.gov>; Loizias, Alex (CMS/CMCS) <Alexandra.Loizias@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>

Subject: RE: FL Proposal D Amendment 2020-2021-just FYI

Also, just in case people don't have this document already, here is a document detailing the financial management review or FMR that we are doing in Florida relating to LPPFs. It's third on the list. An FMR is a kind of audit that FMG does when we have questions about something that is more in depth than the standard review as part of our regular oversight activities and reviewing the CMS-64. We did a similar FMR on Florida's SDP for the previous year as well that Laura Snyder, Lovie, Alex, and DMCP were heavily involved in throughout the process. I imagine that state directed payments will be an increasingly common topic for FMRs in the future given the large and increasing dollar amount that seems to be shifting into state directed payments. As you can see, conditionality of IGTs is one of the items we are reviewing. We write, "This is to ensure the state is not making payment into the LPPFs / IGT a contingency for receiving SDPs back from the state."

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)

Sent: Friday, February 17, 2023 7:00 AM

To: Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>; Campbell-OConnor, Aimee (CMS/CMCS) <Aimee.Campbell-OConnor1@cms.hhs.gov>; Sarah Whitehouse <Whitehouse-Sarah@norc.org>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Davis, Lovie (CMS/CMCS) <Lovie.Davis@cms.hhs.gov>; Loizias, Alex (CMS/CMCS) <Alexandra.Loizias@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>

Subject: RE: FL Proposal D Amendment 2020-2021-just FYI

Thank you Aimee for the article and for your concerns. I believe that the new managed care rule that is currently in development will help to address some of the oversight deficiencies that you have identified regarding the lack of a UPL-type mechanism on the managed care side to serve as an upper ceiling on payment amounts. I believe that ACR or average commercial rate is one of the tools that we have used in the past to serve in this capacity. Regarding your point about actuarial soundness, I agree. It's something that Anna and I have discussed in the past and others have also brought up. Regarding the article from AHCA the "Florida Medicaid Health Care Alert" from July 22, 2021, I think that is helpful. The entity mentioned in the article "Adelanto Healthcare Ventures" is a health care consultant based out of Austin that was also involved in setting up the Texas LPPF. In most instances of what we would think of as "taxes" in everyday life, no one wants to be taxed. In the world of healthcare-related taxes, everyone wants to be taxed because they anticipate receiving more than their tax cost back in increased Medicaid payments. Regarding the conditional nature of the IGT, "If your hospital is not sure whether you are included and would like to be included in the Agency's projections for the hospital directed payment program" I seem to remember something that this may be problematic, but I would defer to Andrew for that as being the SME on IGTs. These are important issues. The oversight system was built on Medicaid FFS payments. Now that 80% or more of payments have shifted to be on managed care and especially with the growing importance of state directed payments, oversight becomes more difficult because state directed payments are relatively new and don't have all of the oversight mechanisms in place as exist on the FFS side of the house. We are working on building them now and we hope that they will be operational moving forward. I definitely think the larger issues you point out are worth discussing either on the next NORC FMR call or else on a separate call. I look forward to talking with you.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>

Sent: Thursday, February 16, 2023 3:44 PM

To: Campbell-OConnor, Aimee (CMS/CMCS) <Aimee.Campbell-OConnor1@cms.hhs.gov>

Cc: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Subject: RE: FL Proposal D Amendment 2020-2021-just FYI

Hi Aimee – Thank you for sharing. I do not participate in the SDP pre-prints review. I'm also cc Jonathan in case he has not seen this.

Sid

From: Campbell-OConnor, Aimee (CMS/CMCS) <Aimee.Campbell-OConnor1@cms.hhs.gov>
Sent: Thursday, February 16, 2023 2:58 PM
To: Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>
Subject: FW: FL Proposal D Amendment 2020-2021-just FYI

Hey Sid!

Just sharing as FYI. Not sure whether you participate in review of SDP pre-prints.



Aimee

From: Campbell-OConnor, Aimee (CMS/CMCS)
Sent: Thursday, February 16, 2023 2:55 PM
To: Delvecchio, Lynn (CMS/CMCS) <Lynn.DelVecchio@cms.hhs.gov>
Subject: FW: FL Proposal D Amendment 2020-2021

Just FYI. 😊

From: Campbell-OConnor, Aimee (CMS/CMCS)
Sent: Thursday, February 16, 2023 2:52 PM
To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Subject: RE: FL Proposal D Amendment 2020-2021

Hi Alex!

I reviewed the SDP pre-print. I guess I don't understand how submission of a pre-print amendment for 2020-2021, 2 years after the fact is actually tied to helping with access or utilization at this point? The support provided for this SDP in the pre-print is minimal at best. I don't have any actual comments because there doesn't seem to be much justification in terms of an improvement in care for beneficiaries for these payments.

What is the purpose of this amendment? The purpose seems to be to provide extra funds to the hospitals using the SDP as a vehicle. If the rates were determined to be actuarially sound, then access should have been considered as part of that. If the rates are not sufficient at this point, where is the data to show that and why wouldn't they just address any concerns with the plans? And/or, raise rates with a rate amendment?

See- <http://www.icontact-archive.com/archive?c=227375&f=11179&s=13873&m=852437&t=850d8a08f66cb5c2e1e49656573dbe0caeb447b39b9d192096e732cbe37425f5>

This arrangement where the State indicates to the hospitals that we are offering you an opportunity to get higher payments if you help contribute the State match, sounds potentially problematic. There is an article from FL Taxwatch on the SDP program that provides some insight. (attached)

I know that on the FFS side of the house we have UPLs, scrutiny of taxation and CPE arrangements to make sure that funds are not "recycled." Here is an article from George Mason university on State financing strategies in Medicaid that

mentions IGTs as a problematic strategy. <https://www.mercatus.org/research/research-papers/medicaid-provider-taxes-gimmick-exposes-flaws-medicaids-financing>

Florida may be allowed to use IGTs as State match under current regulations but I do wonder about how well their strategy aligns with the safeguards CMS has put in place on the FFS side.

I hope this is helpful. I know that Sid and FMG are looking at the Provider Participation Fund for this coming year and that CMS sent a Companion letter with one of the approvals last year. This may be an area where further guidance would be beneficial.



Aimee

Aimee.Campbell-OConnor1@cms.hhs.gov
(207) 441-2788
West Branch
Division of Managed Care Operations (DMCO)
Centers for Medicare & Medicaid Services (CMS)

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Sent: Friday, February 10, 2023 1:11 PM
To: CMS OACT Medicaid Managed Care <OACTMedicaidManagedCare@cms.hhs.gov>; CMS SDP_QUALITY <SDP_QUALITY@cms.hhs.gov>; Campbell-OConnor, Aimee (CMS/CMCS) <Aimee.Campbell-OConnor1@cms.hhs.gov>
Cc: CMS DMCP Medicaid Managed Care Rates <DMCPrates@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Subject: FL Proposal D Amendment 2020-2021

Good Afternoon FRT,

Florida submitted a preprint amendment for formal CMS approval pursuant to 42 CFR 438.6(c). The files are available at the following link: [Box File](#)

Please note the following:

- This is an amendment submission for this payment arrangement.
- The previously approved preprint is available here: [SharePoint](#)
- This proposal is eligible for an annual approval.
- The 90th day for this review is May 11, 2023

FRT feedback for the state is due by **COB, March 3, 2023**. If DMCP does not receive a response by this deadline, we will assume that the FRT member has no questions for the state for addition to the question set and concurs on approval of the preprint. Please reach out with any questions and thanks for your review.

Thank you,
Lovie

Message

From: Lane, Robert (CMS/CMCS); [REDACTED] b(6)
[REDACTED] b(6)
Sent: 2/22/2023 10:40:31 PM
To: Boston, Beverly (CMS/CMCS) [beverly.boston@cms.hhs.gov]
Subject: FW: FW: Information: CMS 2023 Florida Financial Management Review Engagement Letter
Attachments: EC-FM-2023-FL-01-D- Document and Information Request.pdf; EC-FM-2023-FL-01-D Engagement Letter.pdf

FYI!

From: Lane, Robert (CMS/CMCS)
Sent: Wednesday, February 22, 2023 5:06 PM
To: 'Thomas.Wallace@ahca.myflorida.com' <Thomas.Wallace@ahca.myflorida.com>
Cc: 'Carla.Sims@ahca.myflorida.com' <Carla.Sims@ahca.myflorida.com>; 'MaryBeth.Sheffield@ahca.myflorida.com' <MaryBeth.Sheffield@ahca.myflorida.com>; 'Ann.Dalton@ahca.myflorida.com' <Ann.Dalton@ahca.myflorida.com>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>; Barraza, Leticia (CMS/CMCS) <Leticia.Barraza@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; 'MedicaidFMR@norc.org' <MedicaidFMR@norc.org>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>
Subject: RE: Information: CMS 2023 Florida Financial Management Review Engagement Letter

Mr. Wallace:

I apologize for any confusion, but I inadvertently sent a previous draft version of the engagement letter and documents request. Attached you will find the correct versions. Please disregard the previously forward documents. Let me know if you have any questions.

Thank you and again sorry for any confusion this may have caused.

Robert

From: Lane, Robert (CMS/CMCS)
Sent: Wednesday, February 22, 2023 3:05 PM
To: Thomas.Wallace@ahca.myflorida.com
Cc: Carla.Sims@ahca.myflorida.com; MaryBeth.Sheffield@ahca.myflorida.com; Ann.Dalton@ahca.myflorida.com; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>; Barraza, Leticia (CMS/CMCS) <Leticia.Barraza@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; MedicaidFMR@norc.org; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>
Subject: Information: CMS 2023 Florida Financial Management Review Engagement Letter

Mr. Wallace:

The attachment contains an engagement letter to announce CMS' intention to conduct a Financial Management Review on Florida's use of Local Provider Participation Funds as a source of the non-Federal share of the State Directed Program. Please see attached documents for more information.

Thank you,

Robert Lane

Director

Division of Financial Operations East, FMG, CMCS
Centers of Medicare & Medicaid Services (CMS)
7500 Security Blvd, Baltimore, MD 21244-1850

Tel: (410)-786-2015; IP: b(6)

Message

From: Ferguson, Dorothy (CMS/CMCS) [redacted] b(6)
[redacted] b(6)
Sent: 2/23/2023 5:37:47 PM
To: Howe, Rory (CMS/CMCS) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ccac22a48e6d45d589f7fcb66359bfa5-rory.howe]
Subject: FW: FW: TX LPPF Audit

This is what Miquel sent me.

Thanks,
Dorothy Ferguson, 214-767-6385
Director
Division of Financial Operations West, FMG, CMCS
Centers for Medicare & Medicaid Services (CMS)

From: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>
Sent: Wednesday, February 15, 2023 2:34 PM
To: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>
Cc: Odom, Matthew W (OIG/OAS) <Matthew.Odom@oig.hhs.gov>
Subject: RE: TX LPPF Audit

No problem.

From: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 2:33 PM
To: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>
Cc: Odom, Matthew W (OIG/OAS) <Matthew.Odom@oig.hhs.gov>
Subject: RE: TX LPPF Audit

Ok, great! Thanks for the update.

Thanks,
Dorothy Ferguson, 214-767-6385
Director
Division of Financial Operations West, FMG, CMCS
Centers for Medicare & Medicaid Services (CMS)

From: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>
Sent: Wednesday, February 15, 2023 2:26 PM
To: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>
Cc: Odom, Matthew W (OIG/OAS) <Matthew.Odom@oig.hhs.gov>
Subject: RE: TX LPPF Audit

Hey Dorothy,

Things are going well with me. We're shooting to issue our draft report to HHSC on the results of our audit of the Smith County LPPF in early June 2023. We narrowed our objective to determining whether the State agency adhered to the hold-harmless provisions in Federal regulations. NOTE: That's draft wording of the objective.

Thanks,

Miquel Darcey
Assistant Regional Inspector General
DHHS-OIG-OAS
200 NW. 4th Street, Suite 4040
Oklahoma City, OK 73102
Telephone: (214) 601-2994


CONFIDENTIALITY NOTICE: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information or otherwise protected by law. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

From: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 2:00 PM
To: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>
Subject: TX LPPF Audit

Hi Miquel,

Hope all is going well. I was just wondering if you had a timeframe as to when you think the audit will be concluded.

Thanks,

Dorothy Ferguson || Director, Division of Financial Operations West, FMG, CMCS || Centers for Medicare & Medicaid Services (CMS) || 1301 Young Street, Suite 837 || Dallas, TX 75202 || Dorothy.Ferguson@cms.hhs.gov || 214-767-6385 (ph) || 443-380-6399 (fax) ||  Please consider the environment before printing this e-mail.

Message

From: Fan, Kristin (CMS/CMCS) [b(6)]
Sent: 2/23/2023 6:53:59 PM [b(6)]
To: Howe, Rory (CMS/CMCS) [b(6)]; Maccarroll, Amber
[b(6)]; Silanskis, Jeremy
Subject:
Attachments: MFARRevenue6-29.xlsx

Here is the old file from 2020 with the states impacted. I am not aware that any have been added, but the figures would need to be updated. I will ask Jonathan to update.

On Dan's idea of what could we do without a regulation – I have a thought – probably a crazy stretch. I will send a note later after I think through it a bit more to see if I think it is remotely possible.

From: Goldstein, Stuart S. (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Sent: Monday, June 29, 2020 11:40 AM
To: Fan, Kristin A. (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>
Subject: MFAR Impact on MCO taxes

Kristin

Attached is a chart of the potential impact MFAR will have on the MCO taxes as well as the California hospital tax and the Massachusetts NF tax. The total amount is \$8.995 billion. If you have any questions please let me know.

Thank you
Stuart

Message

From: Ruben Soliz [ruben.soliz@azahcccs.gov]
Sent: 2/24/2023 8:40:56 PM
To: Endelman (he/him), Jonathan (CMS/CMCS); [REDACTED] b(6)
[REDACTED] b(6)
CC: Wong, Mark (CMS/CMCS); [REDACTED] b(6)
(FYDIBOHF23SPDLT)/cn=Recipients/cn=036a24e2d9c14ca1959e2eab08c187a78-mark.wong]
Subject: Re: Re: FFY 2023 NF Assessment Waiver Request

Hi Jonathan,

My apologies. I received clarification from a subject matter expert here at AHCCCS and have a revised response to your question. Please see below. And please let me know if you need any additional info.

CMS: Just out of curiosity, why would a nursing facility that was located in a CCRC cease to be in a CCRC and remain in business? Did the non-NF parts of the facility (e.g. independent and assisted living) shut down and the NF part remain in business?

AZ Response: We received late confirmation after we sent the initial email that Christian Care is still a CCRC for FFY 2023. As a result, they continue to be exempt. Does CMS want us to resubmit the documents with Christian Care as exempt? It changes the net patient revenue calculation to 1.91 and the slope to 1.0334.

Thanks,

Ruben

Ruben Soliz, MPH (he/him)
Federal Relations and Health Policy Advisor
Arizona Health Care Cost Containment System
Phone: 602-417-4355
Website: www.azahcccs.gov
[Facebook](#) [Instagram](#) [Twitter](#) [LinkedIn](#) [YouTube](#)

Click [here](#) to learn about AHCCCS's Medicaid and CHIP State Plans.

On Fri, Feb 24, 2023 at 6:57 AM Ruben Soliz <ruben.soliz@azahcccs.gov> wrote:
Thank you!

Ruben Soliz, MPH (he/him)
Federal Relations and Health Policy Advisor
Arizona Health Care Cost Containment System
Phone: 602-417-4355
Website: www.azahcccs.gov
[Facebook](#) [Instagram](#) [Twitter](#) [LinkedIn](#) [YouTube](#)

Click [here](#) to learn about AHCCCS's Medicaid and CHIP State Plans.

On Fri, Feb 24, 2023 at 6:55 AM Endelman (he/him), Jonathan (CMS/CMCS)
<Jonathan.Endelman@cms.hhs.gov> wrote:

Thanks Ruben. There is no need. Data changes like these happen often. Facilities open and facilities close. Please try to submit the most accurate and up to date data in the spreadsheets that you send with Arizona's tax waiver submissions.

Best,

Jonathan

Jonathan Endelman, PhD

Social Science Research Analyst

Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)

Financial Management Group (FMG)

Division of Financial Policy (DFP)

410.786.4738

jonathan.endelman@cms.hhs.gov

7500 Security Blvd.

Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Ruben Soliz <ruben.soliz@azahcccs.gov>

Sent: Thursday, February 23, 2023 5:33 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Cc: Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>

Subject: Re: FFY 2023 NF Assessment Waiver Request

Hi Jonathan,

Apologies for the delay!

That is correct. The non-NF parts of the facility shut down and the NF part remained in business. This was also the case in 2022. Would you like for us to resubmit the 2022 documents since it constitutes a minor change?

Thank You,

Ruben Soliz, MPH (he/him)
Federal Relations and Health Policy Advisor
Arizona Health Care Cost Containment System

Phone: 602-417-4355
Website: www.azahcccs.gov

[Facebook](#) [Instagram](#) [Twitter](#) [LinkedIn](#) [YouTube](#)

Click [here](#) to learn about AHCCCS's Medicaid and CHIP State Plans.

On Wed, Feb 15, 2023 at 9:52 AM Endelman (he/him), Jonathan (CMS/CMCS)
<Jonathan.Endelman@cms.hhs.gov> wrote:

Thanks Ruben. We appreciate the confirmation. Just out of curiosity, why would a nursing facility that was located in a CCRC cease to be in a CCRC and remain in business? Did the non-NF parts of the facility (e.g. independent and assisted living) shut down and the NF part remain in business? I am just trying to understand what went on here.

Best,

Jonathan

Jonathan Endelman, PhD

Social Science Research Analyst

Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)

Financial Management Group (FMG)

Division of Financial Policy (DFP)

410.786.4738

jonathan.endelman@cms.hhs.gov

7500 Security Blvd.

Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Ruben Soliz <ruben.soliz@azahcccs.gov>

Sent: Wednesday, February 15, 2023 10:12 AM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Cc: Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>

Subject: Re: FFY 2023 NF Assessment Waiver Request

Hi Jonathan,

I received this information from our staff:

That is correct that the update involved adding Christian Care. For FFY 2023, they are no longer exempt and have been assessed at the appropriate rate.

Please let me know if you need any additional information.

Thank You,

Ruben

Ruben Soliz, MPH (he/him)
Federal Relations and Health Policy Advisor
Arizona Health Care Cost Containment System

Phone: 602-417-4355
Website: www.azahcccs.gov

[Facebook](#) [Instagram](#) [Twitter](#) [LinkedIn](#) [YouTube](#)

Click [here](#) to learn about AHCCCS's Medicaid and CHIP State Plans.

On Tue, Feb 14, 2023 at 3:12 PM Ruben Soliz <ruben.soliz@azahcccs.gov> wrote:

Hi Jonathan,

I've checked in with our team on this and will get back to you with a response shortly.

Thanks,

Ruben

Ruben Soliz, MPH (he/him)
Federal Relations and Health Policy Advisor
Arizona Health Care Cost Containment System

Phone: 602-417-4355
Website: www.azahcccs.gov

[Facebook](#) [Instagram](#) [Twitter](#) [LinkedIn](#) [YouTube](#)

Click [here](#) to learn about AHCCCS's Medicaid and CHIP State Plans.

On Tue, Feb 14, 2023 at 7:23 AM Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov> wrote:

Ruben,

It looks like the missing facility was Christian Care Nursing Center. It looks like, in previous submissions, that this facility was a CCRC and was excluded. However, for this submission the facility does not appear to be a CCRC and does not appear to be excluded. Is this an error?

Best,

Jonathan

Jonathan Endelman, PhD

Social Science Research Analyst

Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)

Financial Management Group (FMG)

Division of Financial Policy (DFP)

410.786.4738

jonathan.endelman@cms.hhs.gov

7500 Security Blvd.

Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)

Sent: Tuesday, February 14, 2023 9:06 AM

To: Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>; Ruben Soliz <ruben.soliz@azahcccs.gov>

Subject: RE: FFY 2023 NF Assessment Waiver Request

Thanks Ruben. Which facility was missing?

Best,

Jonathan

Jonathan Endelman, PhD

Social Science Research Analyst

Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)

Financial Management Group (FMG)

Division of Financial Policy (DFP)

410.786.4738

jonathan.endelman@cms.hhs.gov

7500 Security Blvd.

Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>

Sent: Monday, February 13, 2023 10:11 AM

To: Ruben Soliz <ruben.soliz@azahcccs.gov>

Cc: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Subject: RE: FFY 2023 NF Assessment Waiver Request

Thank you Ruben!

From: Ruben Soliz <ruben.soliz@azahcccs.gov>

Sent: Friday, February 10, 2023 2:58 PM

To: Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>

Cc: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Subject: Re: FFY 2023 NF Assessment Waiver Request

Hi Mark,

Apologies for the delay on this. Our team has finalized the provider-level breakdown, which I'm attaching to this message with the file name "(Companion to FFY 23 NF Waiver Request)."

Also, we realized that one facility was missing from our original submission. The overall impact was minimal but we have revised both the NF Waiver Request Letter and the waiver illustration to reflect the addition of this facility. I'm attaching the revised version to this message.

Please let me know if you need any additional information.

Thank You,

Ruben

Ruben Soliz, MPH (he/him)
Federal Relations and Health Policy Advisor
Arizona Health Care Cost Containment System

Phone: 602-417-4355

Website: www.azahcccs.gov

[Facebook](#) [Instagram](#) [Twitter](#) [LinkedIn](#) [YouTube](#)

Click [here](#) to learn about AHCCCS's Medicaid and CHIP State Plans.

On Wed, Jan 18, 2023 at 12:21 PM Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov> wrote:

Thanks Ruben!

From: Ruben Soliz <ruben.soliz@azahcccs.gov>
Sent: Wednesday, January 18, 2023 11:04 AM
To: Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>
Cc: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: Re: FFY 2023 NF Assessment Waiver Request

Hi Mark,

I'm writing to follow-up on this message regarding the tax waiver. Please find our responses in red font below:

1. A provider-level breakdown of Medicaid payments funded by the tax and
AZ: Our actuaries are currently preparing this. We expect to have it ready within one week. I will send it over as soon as it is available.
2. A description of the programs that the tax is being used to fund.
AZ:
 - 99% of the funding is to provide medicaid supplemental payments to fund covered services to nursing facility medicaid beneficiaries.
 - 1% of the tax is retained by AHCCCS to offset administrative expenditures related to the operation of the program.

Please let me know if you need any additional information. Otherwise, I will be sure to send you the provider-level breakdown as soon as it is available.

Thanks!

Ruben

Ruben Soliz, MPH (he/him)
Federal Relations and Health Policy Advisor
Arizona Health Care Cost Containment System

Phone: 602-417-4355
Website: www.azahcccs.gov

[Facebook](#) [Instagram](#) [Twitter](#) [LinkedIn](#) [YouTube](#)

Click [here](#) to learn about AHCCCS's Medicaid and CHIP State Plans.

On Wed, Jan 4, 2023 at 10:03 AM Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov> wrote:

Hi Ruben – As part of tax waiver review process now, we are asking states to provide the following:

1. A provider-level breakdown of Medicaid payments funded by the tax and
2. A description of the programs that the tax is being used to fund.

Can you please work on this request? Thanks!

From: Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>
Sent: Tuesday, January 3, 2023 10:15 AM
To: Ruben Soliz <ruben.soliz@azahcccs.gov>
Subject: RE: FFY 2023 NF Assessment Waiver Request

Hi Ruben – Happy New Year!

Just want to acknowledge receipt of this waiver request. I have passed this on to Jonathan and the rest of the tax team for their further review.

Thanks!

Mark

From: Ruben Soliz <ruben.soliz@azahcccs.gov>
Sent: Friday, December 16, 2022 3:12 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>; Zolynas, Brian (CMS/CMCS) <Brian.Zolynas@cms.hhs.gov>
Subject: FFY 2023 NF Assessment Waiver Request

Hello Mr. Howe,

My name is Ruben Soliz and I work for Arizona's Medicaid program. I am writing to submit the state's **FFY 2023 NF Assessment Waiver Request**. With this request, and under the authority of section 1903(w)(3)(E) of the Social Security Act (the Act) and 42 CFR 433.68(e), the State of Arizona is requesting waiver of the broad-based and uniformity requirements for an assessment imposed on Nursing Facilities.

Please find the following documents attached to this message:

1. Waiver Request Letter (PDF)
2. Waiver Illustration (Excel File)

Arizona respectfully requests an effective date of October 1, 2022 for this waiver.

Please let me know if there are any questions or comments with regard to this request.

Thank You,

Ruben

Ruben Soliz, MPH (he/him)
Federal Relations and Health Policy Advisor
Arizona Health Care Cost Containment System

Phone: 602-417-4355

Website: www.azahcccs.gov

[Facebook](#) [Instagram](#) [Twitter](#) [LinkedIn](#) [YouTube](#)

Click [here](#) to learn about AHCCCS's Medicaid and CHIP State Plans.

NOTICE: This e-mail and any attachments to it may contain information that is PRIVILEGED and CONFIDENTIAL under State and Federal law and is intended only for the use of the specific individual(s) to whom it is addressed. This information may only be used or disclosed in accordance with law, and you may be subject to penalties under law for improper use or further disclosure of the information in this e-mail and its attachments. If you have received this e-mail in error, please immediately notify the person named above by reply e-mail, and then delete the one you received

NOTICE: This e-mail and any attachments to it may contain information that is PRIVILEGED and CONFIDENTIAL under State and Federal law and is intended only for the use of the specific individual(s) to whom it is addressed. This information may only be used or disclosed in accordance with law, and you may be subject to penalties under law for improper use or further disclosure of the information in this e-mail and its attachments. If you have received this e-mail in error, please immediately notify the person named above by reply e-mail, and then delete the one you received

NOTICE: This e-mail and any attachments to it may contain information that is PRIVILEGED and CONFIDENTIAL under State and Federal law and is intended only for the use of the specific individual(s) to whom it is addressed. This information may only be used or disclosed in accordance with law, and you may be subject to penalties under law for improper use or further disclosure of the information in this e-mail and its attachments. If you have received this e-mail in error, please immediately notify the person named above by reply e-mail, and then delete the one you received

NOTICE: This e-mail and any attachments to it may contain information that is PRIVILEGED and CONFIDENTIAL under State and Federal law and is intended only for the use of the specific individual(s) to whom it is addressed. This information may only be used or disclosed in accordance with law, and you may be subject to penalties under law for improper use or further disclosure of the information in this e-mail and its attachments. If you have received this e-mail in error, please immediately notify the person named above by reply e-mail, and then delete the one you received

NOTICE: This e-mail and any attachments to it may contain information that is PRIVILEGED and CONFIDENTIAL under State and Federal law and is intended only for the use of the specific individual(s) to whom it is addressed. This information may only be used or disclosed in accordance with law, and you may be subject to penalties under law for improper use or further disclosure of the information in this e-mail and its attachments. If you have received this e-mail in error, please immediately notify the person named above by reply e-mail, and then delete the one you received

NOTICE: This e-mail and any attachments to it may contain information that is PRIVILEGED and CONFIDENTIAL under State and Federal law and is intended only for the use of the specific individual(s) to whom it is addressed. This information may only be used or disclosed in accordance with law, and you may be subject to penalties under law for improper use or further disclosure of the information in this e-mail and its attachments. If you have received this e-mail in error, please immediately notify the person named above by reply e-mail, and then delete the one you received

Message

From: Endelman, Jonathan (CMS/CMCS) [b(6)]
[b(6)]
Sent: 1/11/2023 2:39:00 PM
To: Arnold, Charlie (CMS/CMCS) [b(6)]
Howe, Rory (CMS/CMCS)
Stams, Lia (CMS/CMCS)
CC: [b(6)]
Silanskis, Jeremy
Maccarroll, Amber
Bonelli, Anna
Clark, Jennifer
Cuno, Richard
Fan, Kristin
Mosley, Elle (CMS/CMCS)

Subject: RE: RE: North Carolina
Attachments: Questions on North Carolina Hospital Tax Statistical Test January 11 2023.docx; NC Financing 1-11-23.docx

Dear Rory,

In accordance with your instructions below we have revised the hold harmless questions to be more like what we sent to Nevada. We replaced the state's name. Other than that the letter is exactly the same. Please let us know if we can send both documents to North Carolina. In addition, please let us know if we need to tweak or change the questions in any way. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>
Sent: Tuesday, January 10, 2023 4:46 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: FW: North Carolina

FYI...

Charlie Arnold
Director
CMCS/FMG/DFP
(443) 962-2499

Any opinion expressed in this email communication does not represent the opinion of the agency and will not bind or obligate CMS. CMS has relied on the facts and information presented and if any material facts have not been disclosed, any opinion/advice is without force and effect. Any advice is limited to the facts presented and is part of informal discussions of the issues raised.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, January 10, 2023 4:05 PM
To: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: RE: North Carolina

Hi Charlie,

Let's discuss at the DFO/DFP Touch base tomorrow. Although we have very limited verbal information from the state expressing concerns about possible redistribution arrangements, I am concerned that the limited hold harmless questions here could be viewed as inconsistent with what we shared with Nevada (see attached – though notably, Nevada requested more detail on what assurances we would want).

Thanks,
Rory

From: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>
Sent: Tuesday, January 10, 2023 3:36 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: FW: North Carolina
Importance: High

Hi Rory,

We received the below email from DMCP. They are requesting our questions for NC by 1/20/2023 or they will recommend the approval of the SDP. We are not sure how to respond. We let them know that, because of a possible hold-harmless issue, you are reviewing the questions.

Have you had a chance to review the questions? How should we respond to DMCP?

Thanks,

Charlie Arnold
Director
CMCS/FMG/DFP
(443) 962-2499

Any opinion expressed in this email communication does not represent the opinion of the agency and will not bind or obligate CMS. CMS has relied on the facts and information presented and if any material facts have not been disclosed, any opinion/advice is without force and effect. Any advice is limited to the facts presented and is part of informal discussions of the issues raised.

From: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Sent: Tuesday, January 10, 2023 8:12 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>; Gibson, Alexis (CMS/CMCS) <alexis.gibson@cms.hhs.gov>
Subject: RE: North Carolina

Hi Jonathan and FMG colleagues,

Thank you for the update. As noted today, we are concerned with the length of time that this review has been on hold. We received the preprint in April 2022 and have been ready to approve this action pending this outstanding concern on the provider tax for several months. We appreciate that financing issues take time to resolve, but no questions have been issued to the state on the provider tax in months.

We appreciate that everyone is juggling several priorities, including NPRMs as well as ongoing work. However, we feel that continuing to hold this review in this manner is problematic.

If questions for the state cannot be finalized and sent to the state by COB 1/20, we will recommend moving ahead with approval of the SDP. We are happy to add language to the approval letter related to concerns around non-federal share if questions cannot be sent by that date; just let us know if you'd like to add the language and what language should be added.

We are happy to further discuss this if helpful.

Thanks,
Laura

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Monday, January 9, 2023 3:27 PM
To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Subject: RE: North Carolina

Lovie,

North Carolina was brought up today during a meeting with Rory. He said he would take a look at the questions and get back to us soon. We just wanted to keep you updated. Thanks.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Thursday, January 5, 2023 11:49 AM
To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Subject: RE: North Carolina

Thank you Lovie. We are waiting on clearance to send the questions from Rory. I hope to bring this up with Charlie today at our meeting. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Sent: Thursday, January 5, 2023 10:39 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS)

<Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: North Carolina

Hi Anna and Jonathan,

Happy New Year! As a follow up to the emails below, can you provide a status update on FMG's question sets for NC. The state has requested updates regarding the questions since November 2022. Can you assist us with getting the questions cleared? We'd like to respond to the state and send any questions from FMG this week if possible.

Thanks,
Lovie

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Thursday, December 15, 2022 12:05 PM

To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>

Subject: RE: North Carolina

Hello Lovie,

I can confirm that the issue was brought up at the meeting with Rory yesterday. Rory stated that he would take a look at the questions and loop back with us after he had a chance to review them. I will be sure to keep you updated as more information becomes available. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)

Sent: Thursday, December 15, 2022 10:58 AM

To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS)

<James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Subject: RE: North Carolina

Hello Lovie,

I believe there was supposed to be a meeting with Rory yesterday where we had planned to ask if Rory had taken a look at the questions for North Carolina. I am not sure if we brought that up at the meeting. Let me check and get back with you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Sent: Thursday, December 15, 2022 10:03 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Subject: RE: North Carolina

Hi Jonathan,

I'm following up on the email below. Have you received feedback from Rory regarding the North Carolina question sets? The state is requesting a status update.

Thank you,
Lovie

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Sent: Tuesday, December 13, 2022 1:45 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: North Carolina

Hi Jonathan and Stuart,

North Carolina is requesting a status update (please see attached email). During the FMG meeting yesterday and the email below you indicated you're waiting for feedback from Rory on the question sets. We'd like to respond to the state and send any questions from FMG this week if possible. We look forward to your update on next steps.

Thanks,
Lovie

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Sent: Monday, November 28, 2022 12:04 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: North Carolina

Hi Jonathan—Great! Thanks for the update.

Lovie

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Monday, November 28, 2022 11:50 AM

To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>

Subject: RE: North Carolina

Lovie,

Yes. We have questions about the tax waiver submission itself as well as about our hold harmless concerns. Similar to how we handled the Louisiana IP/OP hospital tax, our plan is to ask the questions related to the tax waiver submission itself to the state through the tax waiver submission process and our questions concerning possible hold harmless arrangements through the state-directed payment financing review process. On his request, we have sent both sets of questions to Rory and are waiting to hear back from him with his feedback before sending the questions to the state. Please let us know if we can be of any further assistance at this time. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst

Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Sent: Monday, November 28, 2022 10:18 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Subject: RE: North Carolina

Hi Jonathan,

Happy Monday! North Carolina is requesting a status update regarding their tax waiver submission (please see attachment). Does FMG have follow questions for the state? I'll add this topic the DMCP/FMG meeting agenda for tomorrow.

Thanks,
Lovie

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Tuesday, November 1, 2022 1:39 PM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: FW: North Carolina

Dear all,

I started to review North Carolina's IP hospital services and OP hospital services health care-related taxes. I can already tell this one is going to require a lot of work before it gets to something approaching a tax for which we could recommend approval. It's certainly not the most straight forward or easily understandable submission we have ever received. It's been a decade since the state has come in to us with a tax waiver submission and it shows. I don't think someone has worked on this data in a long time. In general, the more recent a tax waiver approval is, the better shape it tends to be. In an ideal world, states would go in every so often to make sure the data is correct, clean things up, etc. We had a section of MFAR that had an expiration date of three years for tax waivers that I think would have partially addressed this issue. Please see attached for questions and the submission from the State. Please also see attached for the tax waiver approval from 2011. Also, it would be good to hear more detail from Rory about what he knows specifically about the pooling and redistribution mechanism that we believe may be attached to this tax and the extant hold harmless concerns. I am copying DMCP for awareness. I will also copy when we send questions to the state.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)

Sent: Friday, October 7, 2022 2:35 PM

To: cecilia.williams@dhhs.nc.gov; Betty.J.Staton@dhhs.nc.gov

Cc: Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Subject: North Carolina

Good afternoon Ms. Staton,

My name is Jonathan Endelman and I am a member of the tax team located in the Financial Management Group (FMG) at CMS. We are responsible for reviewing all health care-related tax waivers of the broad-based and uniformity requirements. We are acknowledging receipt of the State's submission of 10/6/2022 requesting a waiver of the broad-based and uniformity requirements for its inpatient and outpatient hospital services taxes. We will be in touch in case we have any questions or concerns over the course of our review. In the future, please address all tax waivers to:

Mr. Rory Howe, Director
Financial Management Group
Center for Medicaid and CHIP Services
U.S. Department of Health & Human Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850

Thank you.

Best,

Jonathan

Message

From: Boston, Beverly (CMS/CMCS) [redacted] b(6)
Sent: 3/1/2023 10:03:46 PM [redacted] b(6)
To: [redacted] b(6)
CC: [redacted] b(6)
Subject: [redacted] b(6)
Attachments: Delegation of Section 1903 [42 U.S.C. 1396b](w)(3)(E)(ii).docx; Tab A - Previous Delegation of Authority Memo--10-25-01.pdf; Delegation of Section 1903 [42 U.S.C. 1396b](w)(3)(E)(ii).pdf; Tab B - Section 1903 [42 U.S.C. 1396b](w)(3)(E)(ii).pdf

Arnold, Charlie
Clark, Jennifer
Goldstein, Stuart
Manski, Jeremy
Maccarroll, Amber
Fan, Kristin

Hello Jonathan and DFP/DOB,

I did work with OHC to have tax waiver signatures re-delegated to the DFP Director-level for signature (Group-level delegation will continue to be reflected). Please see attached for your review before we proceed to ask the OCD to signoff on the DoA. Can you review all of the PDFs to make sure they accurately indicate the correct authority specific to tax waiver delegation? Once we confirm accuracy, **Rory, Amber, Jeremy** I think signature can be requested at an OCD TB or even offline?

Thank you

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 1, 2023 8:25 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hey Beverly. I just wanted to check to see if there was any updates that you have in terms of the delegation of signature authority for tax waivers. Please let us know if there is any way that the tax team can help. Thank you.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Wednesday, February 1, 2023 2:35 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Thanks Beverly. We appreciate it.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 2:31 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Got it and working on it. Thanks

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 2:20 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Beverly,

1903(w)(3)(E)(ii) [42 USC 1396b (w)(3)(E)(ii)] would be the pertinent section. That's the section that talks about CMS approving tax waivers. Please let me know if I could be of further assistance. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 1:47 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hi Jonathan,

See below Delegations of Authority (DoAs) that are related to taxes. We did request delegation at the Group Dir level which is why Rory is able to sign so this is not the latest. Can you confirm which DoAs would be pertinent to the tax letters that Rory signs?

87	<u>1903(w)(2)(B)</u> [42 USC 1396b(w) (2)(B)]	Determine that the State has satisfactorily established that a provider-related donation has no direct or indirect relationship to payments made, under Title XIX of the Social Security Act, to that provider, to providers furnishing the same class of items and services as the provider, or to any related entity.	Deputy Administrator & Dir/Dep Dir, CMCS	
88	<u>1903(w)(3)(C)(i)</u> (IV) [42 USC 1396b(w) (3)(C)(i)(IV)]	Determine that the State has satisfactorily established that any other tax has been imposed uniformly with respect to a health care related tax.	Deputy Administrator & Dir/Dep Dir, CMCS	
89	<u>1903(w)(3)(E)(i)</u> [42 USC 1396b(w) (3)(E)(i)]	Treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in a class (or all providers of such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of Section 1903(w)(3)(B) or (C) of the Social Security Act with respect to an application submitted by a State.	Deputy Administrator & Dir/Dep Dir, CMCS	
90	<u>1903(w)(3)(E)(ii)</u> [42 (USC 1396b w)(3)(E)(ii)]	Approve such application if the State satisfactorily establishes that : (1) The net impact of the tax and associated expenditures under Title XIX of the Social Security Act as proposed by the State is generally redistributive in nature, and (2) The amount of the tax is not directly correlated to payments under Title XIX of the Social Security	Deputy Administrator & Dir/Dep Dir, CMCS	

		Act for items or services with respect to which the tax is imposed with respect to an application submitted by a State requesting that a tax be treated as a broad-based health care related tax.		
91	<u>1903(w)(4)</u> [42 USC 1396b(w) (4)]	Determine that any of the following applies: (1) The State or other unit of Government imposing the tax provides (directly or indirectly) for a payment (other than under Title XIX of the Social Security Act) to taxpayers, and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of the payment under the State plan; and (2) All or any portion of the payment under Title XIX of the Social Security Act to the taxpayer varies based only upon the amount of the total tax paid; and (C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax with respect to a broad-based health care related tax imposed with respect to a class of items or services.	Deputy Administrator & Dir/Dep Dir, CMCS	Amended per Section 403 of Public Law 109-432, 12/20/06
92	<u>1903(w)(5)(B)(ii)</u> [42 USC 1396b(w) (5)(B)(ii)]	Project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year Authority, with respect to a tax, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, that is not in effect throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	
93	<u>1903(w)(5)(C)(i)</u> [42 USC 1396b(w) (5)(C)(i)]	Determine the total amount of health care related taxes, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, based on only those taxes (including the tax rate or base) which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	
94	<u>1903(w)(5)(C)(ii)</u> [42 USC 1396b(w) (5)(C)(ii)]	Determine the amount of provider-related donations, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, based on programs in effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:36 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Thanks assisting us with this Beverly. We appreciate it.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:34 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hi Jonathan,

Thanks for this reminder to the team and also me to confirm the Delegation of Authority for tax wavier signatures. I will look into this signatory level and will circle back.

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:26 AM
To: Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>
Subject: FW: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Dear team,

North Carolina inquired today regarding the status of their revised NF tax waiver. The revised North Carolina NF and the two Michigan NFs still need to be signed by Rory. Since we have implemented the double checklist check in the future, we feel confident that situations such as the NC NF will not occur in the future. As a reminder, the NC NF tax waiver that we sent to Rory originally for signature was incorrect. We then sent him a revised version, which was also incorrect. We have since sent him a third, correct version, that is waiting to be signed. The new process involves checking the tax waiver checklist twice. The first time is before we put it on FMG internal clearance. The second time is after we present at FMG internal clearance and before we send an email to Rory for signature. After we check the checklist, as a way of ensuring that we have done it, I recommend sending an email to the team each time informing them that we have completed the checklist. We have followed this process for MI's NF tax waivers. As a result, this will not happen again.

In general, we do have an issue that documents that we send to Rory for signature may not get signed expeditiously. Given the volume of work Rory has this is certainly understandable. I recommend pursuing the option of investigating signature authority procedures to see if someone else may sign documents for Rory and, if so, who. Rory himself mentioned that this would be his preference. I think we should follow up on that. In general, I think we should also convene a working group to suggest and solicit feedback regarding these types of process improvements to help things work better, which after all never is complete. We can always do things better and more efficiently.

I look forward to more discussion on these topics.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>
Sent: Wednesday, February 1, 2023 11:16 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>
Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

This message was sent securely using Zix®

Awesome! Thanks so much for the information. We will keep this mind when sending emails in the future.

Cecilia Williams
State Plan and Amendments Coordinator
NC Medicaid
Division of Health Benefits
[NC Department of Health and Human Services](#)



Vax Up **OR** Mask Up

Find a vaccine location, get questions answered and more at YourSpotYourShot.nc.gov.

Mobile: b(6)
Office: (919) 527-7105

Cecilia.Williams@dhhs.nc.gov

820 S. Boylan Ave., McBryde Building
1950 Mail Service Center
Raleigh, NC 27699-1950

[Twitter](#) | [Facebook](#) | [YouTube](#) | [LinkedIn](#)

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Wednesday, February 1, 2023 11:15 AM

To: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>

Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Subject: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Thank you for checking. There was one individual who used to work with the CMS tax team but has since retired. His name is Jim Burns. He was our technical director in the Division of Financial Policy. His email address is no longer valid because he retired. He is copied on the email that you replied to. That is why you are getting the error message.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>

Sent: Wednesday, February 1, 2023 11:12 AM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>

Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Subject: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

This message was sent securely using Zix®

Good morning, Jonathan!

An update was requested in a previous email. However, I received an “undeliverable” message and wanted to resend just to make sure it was not associated with your email address. Can you provide an update on the revised approval mentioned in the subject line above.

Thanks!

Cecilia Williams

State Plan and Amendments Coordinator
NC Medicaid (Benefits and Services)

Mobile: b(6)

Office: (919) 527-7105



Vax Up OR **Mask Up**

Find a vaccine location, get questions answered and more at YourSpotYourShot.nc.gov.

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized State official. Unauthorized disclosure of juvenile, health, legally privileged, or otherwise confidential information, including confidential information relating to an ongoing State procurement effort, is prohibited by law. If you have received this email in error, please notify the sender immediately and delete all records of this email.

This message was secured by **Zix**®.

This message was secured by **Zix**®.

Message

From: Fan, Kristin (CMS/CMCS) [b(6)]
Sent: 3/2/2023 3:04:53 PM [b(6)]
To: Darcey, Miquel M (OIG/OAS) [b(6)]; Howe, Rory
Hagg, John D (OIG/OAS)
CC: Arnold, Charlie
Clark, Jennifer
Goldstein, Stuart
Silanskis, Jeremy
Endelman (he/him),
Ferguson, Dorothy
Bonelli, Anna
Subject: RE: RE: 2008 final rule health care related taxes

Yes – it was issued on 2/17 actually. Here is the link

[Health Care related Taxes \(medicaid.gov\)](https://www.medicaid.gov)

From: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>
Sent: Thursday, March 2, 2023 10:02 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Hagg, John D (OIG/OAS) <John.Hagg@oig.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>
Subject: RE: 2008 final rule health care related taxes

Rory,

Did you guys issue the CIB last Friday? Just curious.

Thanks,

Miquel

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, February 14, 2023 7:04 AM
To: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>; Hagg, John D (OIG/OAS) <John.Hagg@oig.hhs.gov>
Cc: amber.maccarroll.cms <Amber.MacCarroll@cms.hhs.gov>; kristin.fan.cms <Kristin.Fan@cms.hhs.gov>; charlie.arnold.cms <Charlie.Arnold@cms.hhs.gov>; jennifer.clark2.cms <jennifer.clark@cms.hhs.gov>; stuart.goldstein.cms <STUART.GOLDSTEIN@cms.hhs.gov>; jeremy.silanskis.cms <Jeremy.Silanskis@cms.hhs.gov>; jonathan.endelman.cms <Jonathan.Endelman@cms.hhs.gov>; dorothy.ferguson.cms <Dorothy.Ferguson@cms.hhs.gov>; anna.bonelli.cms <Anna.Bonelli@cms.hhs.gov>
Subject: RE: 2008 final rule health care related taxes

Good morning John and Miquel,

Please see attached an updated version of the CMCS Informational Bulletin (CIB) that I originally shared below. Tentatively, CMS is scheduled to publish the CIB on Friday, so we wanted to provide you advanced notice and a more recent draft. Again, the CIB is intended to remind states of statutory and regulatory requirements regarding prohibited hold harmless arrangements and the production of supporting documentation. It does not establish any new CMS policy or requirements. Please keep the draft close hold, as it is has not been released publicly.

Please let me know if you have any questions.

Thanks,
Rory

From: Howe, Rory (CMS/CMCS)
Sent: Monday, November 21, 2022 3:54 PM
To: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Hagg, John D (OIG/OAS) <John.Hagg@oig.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>
Subject: RE: 2008 final rule health care related taxes

+ John

Hi Miquel,

In addition to the materials that we shared last week, please see attached the current draft of an informational bulletin that CMS intends to release to states later this year or early next year. The bulletin would remind states of statutory and regulatory requirements regarding prohibited hold harmless arrangements and producing supporting documentation to CMS. It would not establish any new CMS policy or requirements. Please keep the draft close hold, as it is still under development by CMS and has not been released outside of CMS.

We thought the information might be helpful to you. As always, please let us know if you have questions or would like to discuss.

Thanks,
Rory

From: Howe, Rory (CMS/CMCS)
Sent: Thursday, November 17, 2022 8:14 AM

To: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>

Subject: RE: 2008 final rule health care related taxes

Good morning Miquel,

Please see attached five documents per our conversation last week. They are as follows:

- 1) A November 2021 letter from CMS to the State of Texas outlining CMS' concerns regarding a possible hold harmless arrangement relating the state's LPPF financing.
- 2) A set of consolidated communication between CMS and the State of Texas regarding multiple proposed SDPs. The communication includes robust discussion regarding the state's LPPF arrangement.
- 3) A March 2022 letter informing the state that one of its proposed SDPs are approved, but informing the state that the SDP approval does not constitute an approval of underlying sources of non-federal share. Please note that this is only one of three parallel TX approval letters that we are including as an example. The other letters contained the same language regarding non-federal share sources.
- 4) A September 2022 letter from CMS approving a proposed state directed payment (SDP) for the State of Florida, but informing the state that the SDP approval does not constitute an approval of underlying sources of non-federal share.
- 5) A September 2022 "companion" letter sent to Florida at the same time as the SDP approval indicating that CMS has outstanding concerns regarding the state's source of non-federal share for its SDP. The letter provides detailed information regarding the statutory and regulatory basis for our concerns regarding a possible hold harmless arrangement, as well as notifies the state of CMS' intent to conduct a FY 23 financial management review of Florida's LPPF arrangement.

Please let us know if you have any questions or if it would be helpful to set up some more time to discuss.

Regards,
Rory

From: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Sent: Monday, November 14, 2022 10:49 AM
To: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>
Subject: 2008 final rule health care related taxes

Miquel

I am sharing the 2008 final rule related to health care related taxes. If you have any questions or would like to discuss please feel free to reach out to me. thanks-Stuart

<https://www.federalregister.gov/documents/2008/02/22/E8-3207/medicaid-program-health-care-related-taxes>

From: Goldstein, Stuart (CMS/CMCS)
Sent: Thursday, November 10, 2022 4:05 PM
To: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>
Subject: Discussion about TX LPPF and hold harmless provisions

Miquel,

As discussed on today's call please see the attached on the bottom of page 12 for a discussion of the indirect hold harmless provision.

We will be sending additional information early next week. If you would like to discuss please feel free to contact me.

Thank you
Stuart Goldstein

-----Original Appointment-----

From: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>
Sent: Friday, November 4, 2022 3:55 PM
To: Darcey, Miquel M (OIG/OAS); Maccarroll, Amber (CMS/CMCS); Silanskis, Jeremy (CMS/CMCS); Fan, Kristin (CMS/CMCS); Arnold, Charlie (CMS/CMCS); Ferguson, Dorothy (CMS/CMCS); Goldstein, Stuart (CMS/CMCS); Howe, Rory (CMS/CMCS); Odom, Matthew W (OIG/OAS); Wheeler, Trish M (OIG/OAS); Rawlins, Tony A (OIG/OAS); Hunn, Jennifer L (OIG/OAS); Rose, Caleb R (OIG/OAS); Beacham, John C (OIG/OAS); Hagg, John D (OIG/OAS); Cogley, Patrick J (OIG/OAS)
Subject: Discussion about TX LPPF and hold harmless provisions
When: Thursday, November 10, 2022 2:00 PM-3:00 PM (UTC-06:00) Central Time (US & Canada).
Where: Microsoft Teams Meeting

-----Original Appointment-----

From: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>
Sent: Friday, November 4, 2022 3:50 PM
To: Darcey, Miquel M (OIG/OAS); Howe, Rory (CMS/CMCS); Odom, Matthew W (OIG/OAS); Wheeler, Trish M (OIG/OAS); Rawlins, Tony A (OIG/OAS); Hunn, Jennifer L (OIG/OAS); Rose, Caleb R (OIG/OAS); Beacham, John C (OIG/OAS); Hagg, John D (OIG/OAS); Cogley, Patrick J (OIG/OAS)
Subject: Discussion about TX LPPF and hold harmless provisions
When: Thursday, November 10, 2022 2:00 PM-3:00 PM (UTC-06:00) Central Time (US & Canada).
Where: Microsoft Teams Meeting

Microsoft Teams meeting

Join on your computer, mobile app or room device
[Click here to join the meeting](#)

Meeting ID: **b(6)**

Passcode: **b(6)**

[Download Teams](#) | [Join on the web](#)

Or call in (audio only)

+1 202-930-5797 **b(6)** United States, Washington DC

Phone Conference ID: **b(6)**

[Find a local number](#) | [Reset PIN](#)

[Learn More](#) | [Meeting options](#)

Message

From: Arnold, Charlie (CMS/CMCS) [REDACTED] b(6)
[REDACTED] b(6)
Sent: 3/2/2023 10:49:26 PM
To: Darcey, Miquel M (OIG/OAS) [REDACTED] b(6)
[REDACTED] b(6) Hagg, John D
CC: [REDACTED] b(6); Clark, Jennifer
[REDACTED] b(6); Goldstein, Stuart
[REDACTED] b(6); Silanskis, Jeremy
[REDACTED] b(6); Howe, Rory (CMS/CMCS)
[REDACTED] b(6); Fan, Kristin (CMS/CMCS)
Subject: RE: RE: 2008 final rule health care related taxes
Attachments: Informational Bulletin: Health Care-Related Taxes and Hold Harmless Arrangements

Hi Miquel,

We did release the CIB. Please see attached.

Thanks,

Charlie Arnold
Director
CMCS/FMG/DFP
(443) 962-2499

Any opinion expressed in this email communication does not represent the opinion of the agency and will not bind or obligate CMS. CMS has relied on the facts and information presented and if any material facts have not been disclosed, any opinion/advice is without force and effect. Any advice is limited to the facts presented and is part of informal discussions of the issues raised.

From: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>
Sent: Thursday, March 2, 2023 10:02 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Hagg, John D (OIG/OAS) <John.Hagg@oig.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>
Subject: RE: 2008 final rule health care related taxes

Rory,

Did you guys issue the CIB last Friday? Just curious.

Thanks,

Miquel

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, February 14, 2023 7:04 AM
To: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>; Hagg, John D (OIG/OAS) <John.Hagg@oig.hhs.gov>
Cc: amber.maccarroll.cms <Amber.MacCarroll@cms.hhs.gov>; kristin.fan.cms <Kristin.Fan@cms.hhs.gov>; charlie.arnold.cms <Charlie.Arnold@cms.hhs.gov>; jennifer.clark2.cms <jennifer.clark@cms.hhs.gov>; stuart.goldstein.cms <STUART.GOLDSTEIN@cms.hhs.gov>; jeremy.silanskis.cms <Jeremy.Silanskis@cms.hhs.gov>; jonathan.endelman.cms <Jonathan.Endelman@cms.hhs.gov>; dorothy.ferguson.cms <Dorothy.Ferguson@cms.hhs.gov>; anna.bonelli.cms <Anna.Bonelli@cms.hhs.gov>
Subject: RE: 2008 final rule health care related taxes

Good morning John and Miquel,

Please see attached an updated version of the CMCS Informational Bulletin (CIB) that I originally shared below. Tentatively, CMS is scheduled to publish the CIB on Friday, so we wanted to provide you advanced notice and a more recent draft. Again, the CIB is intended to remind states of statutory and regulatory requirements regarding prohibited hold harmless arrangements and the production of supporting documentation. It does not establish any new CMS policy or requirements. Please keep the draft close hold, as it is has not been released publicly.

Please let me know if you have any questions.

Thanks,
Rory

From: Howe, Rory (CMS/CMCS)
Sent: Monday, November 21, 2022 3:54 PM
To: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Hagg, John D (OIG/OAS) <John.Hagg@oig.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>
Subject: RE: 2008 final rule health care related taxes

+ John

Hi Miquel,

In addition to the materials that we shared last week, please see attached the current draft of an informational bulletin that CMS intends to release to states later this year or early next year. The bulletin would remind states of statutory and regulatory requirements regarding prohibited hold harmless arrangements and producing supporting documentation to CMS. It would not establish any new CMS policy or requirements. Please keep the draft close hold, as it is still under development by CMS and has not been released outside of CMS.

We thought the information might be helpful to you. As always, please let us know if you have questions or would like to discuss.

Thanks,
Rory

From: Howe, Rory (CMS/CMCS)
Sent: Thursday, November 17, 2022 8:14 AM
To: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>
Subject: RE: 2008 final rule health care related taxes

Good morning Miquel,

Please see attached five documents per our conversation last week. They are as follows:

- 1) A November 2021 letter from CMS to the State of Texas outlining CMS' concerns regarding a possible hold harmless arrangement relating the state's LPPF financing.
- 2) A set of consolidated communication between CMS and the State of Texas regarding multiple proposed SDPs. The communication includes robust discussion regarding the state's LPPF arrangement.
- 3) A March 2022 letter informing the state that one of its proposed SDPs are approved, but informing the state that the SDP approval does not constitute an approval of underlying sources of non-federal share. Please note that this is only one of three parallel TX approval letters that we are including as an example. The other letters contained the same language regarding non-federal share sources.
- 4) A September 2022 letter from CMS approving a proposed state directed payment (SDP) for the State of Florida, but informing the state that the SDP approval does not constitute an approval of underlying sources of non-federal share.
- 5) A September 2022 "companion" letter sent to Florida at the same time as the SDP approval indicating that CMS has outstanding concerns regarding the state's source of non-federal share for its SDP. The letter provides detailed information regarding the statutory and regulatory basis for our concerns regarding a possible hold harmless arrangement, as well as notifies the state of CMS' intent to conduct a FY 23 financial management review of Florida's LPPF arrangement.

Please let us know if you have any questions of if it would be helpful to set up some more time to discuss.

Regards,
Rory

From: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Sent: Monday, November 14, 2022 10:49 AM
To: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>
Subject: 2008 final rule health care related taxes

Miquel

I am sharing the 2008 final rule related to health care related taxes. If you have any questions or would like to discuss please feel free to reach out to me. thanks-Stuart

<https://www.federalregister.gov/documents/2008/02/22/E8-3207/medicaid-program-health-care-related-taxes>

From: Goldstein, Stuart (CMS/CMCS)
Sent: Thursday, November 10, 2022 4:05 PM
To: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>
Subject: Discussion about TX LPPF and hold harmless provisions

Miquel,

As discussed on today's call please see the attached on the bottom of page 12 for a discussion of the indirect hold harmless provision.

We will be sending additional information early next week. If you would like to discuss please feel free to contact me.

Thank you
Stuart Goldstein

-----Original Appointment-----

From: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>
Sent: Friday, November 4, 2022 3:55 PM
To: Darcey, Miquel M (OIG/OAS); Maccarroll, Amber (CMS/CMCS); Silanskis, Jeremy (CMS/CMCS); Fan, Kristin (CMS/CMCS); Arnold, Charlie (CMS/CMCS); Ferguson, Dorothy (CMS/CMCS); Goldstein, Stuart (CMS/CMCS); Howe, Rory (CMS/CMCS); Odom, Matthew W (OIG/OAS); Wheeler, Trish M (OIG/OAS); Rawlins, Tony A (OIG/OAS); Hunn, Jennifer L (OIG/OAS); Rose, Caleb R (OIG/OAS); Beacham, John C (OIG/OAS); Hagg, John D (OIG/OAS); Cogley, Patrick J (OIG/OAS)
Subject: Discussion about TX LPPF and hold harmless provisions
When: Thursday, November 10, 2022 2:00 PM-3:00 PM (UTC-06:00) Central Time (US & Canada).
Where: Microsoft Teams Meeting

-----Original Appointment-----

From: Darcey, Miquel M (OIG/OAS) <Miquel.Darcey@oig.hhs.gov>
Sent: Friday, November 4, 2022 3:50 PM
To: Darcey, Miquel M (OIG/OAS); Howe, Rory (CMS/CMCS); Odom, Matthew W (OIG/OAS); Wheeler, Trish M (OIG/OAS); Rawlins, Tony A (OIG/OAS); Hunn, Jennifer L (OIG/OAS); Rose, Caleb R (OIG/OAS); Beacham, John C (OIG/OAS); Hagg, John D (OIG/OAS); Cogley, Patrick J (OIG/OAS)
Subject: Discussion about TX LPPF and hold harmless provisions
When: Thursday, November 10, 2022 2:00 PM-3:00 PM (UTC-06:00) Central Time (US & Canada).
Where: Microsoft Teams Meeting

Microsoft Teams meeting

Join on your computer, mobile app or room device
[Click here to join the meeting](#)

Meeting ID: **b(6)**
Passcode: **b(6)**
[Download Teams](#) | [Join on the web](#)

Or call in (audio only)

+1 202-930-579 **b(6)** United States, Washington DC

Phone Conference ID: **b(6)**

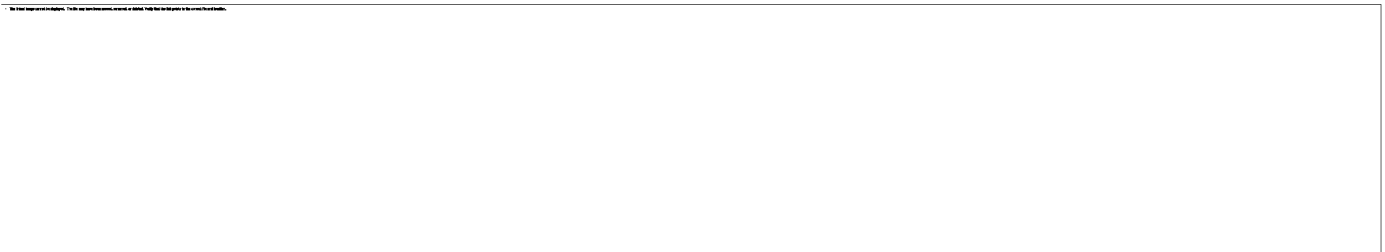
[Find a local number](#) | [Reset PIN](#)

[Learn More](#) | [Meeting options](#)

Message

From: Center for Medicaid and CHIP Services (CMCS) [Medicaid.gov@subscriptions.cms.hhs.gov]
Sent: 2/17/2023 8:26:31 PM
To: Arnold, Charlie (CMS/CMCS) [charlie.arnold@cms.hhs.gov]
Subject: Informational Bulletin: Health Care-Related Taxes and Hold Harmless Arrangements
Flag: Follow up

[View in browser](#) | Distributed by Center for Medicaid and CHIP Services (CMCS)

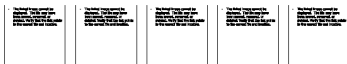


Informational Bulletin: Health Care-Related Taxes and Hold Harmless Arrangements

Today, the Centers for Medicare & Medicaid Services (CMS) issued an informational bulletin to states reiterating certain federal requirements that pertain to health care-related taxes. Recently, CMS became aware that some health care-related tax programs appear to involve agreements among providers to redistribute their Medicaid payments to hold taxpayers harmless for the cost of the tax. The informational bulletin reminds states that such arrangements are prohibited by the statute and regulations and re-emphasizes our goal of assisting states in ensuring appropriate sources of non-federal share financing.

[Read the full Informational Bulletin.](#)

Stay connected with Medicaid.gov and CMS:



[Modify/Update Subscriber Preferences](#) | [Unsubscribe](#) | [Contact Us](#)

Questions or problems? Please contact subscriberhelp.govdelivery.com.

This e-mail was sent to charlie.arnold@cms.hhs.gov using GovDelivery Communications Cloud on behalf of the Centers for Medicare & Medicaid Services (410-786-5473) · 7500 Security Boulevard · Baltimore MD 21244

Message

From: Maccarroll, Amber (CMS/CMCS); [REDACTED] b(6)
Sent: 3/3/2023 12:38:57 PM
To: Boston, Beverly (CMS/CMCS); [REDACTED] b(6)
CC: [REDACTED] b(6)
Subject: RE: RE: Re-Delegation of Authority for Tax Waiver signatures!

Endelman (he/him),
; Arnold, Charlie
Clark, Jennifer
Goldstein, Stuart
ilanskis, Jeremy
Fan, Kristin (CMS/CMCS)

Thanks Beverly! Our next OCD touch base is on March 9th – we can plan take this up at that time.

Thanks, Amber

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, March 1, 2023 5:04 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: Re-Delegation of Authority for Tax Waiver signatures!

Hello Jonathan and DFP/DOB,

I did work with OHC to have tax waiver signatures re-delegated to the DFP Director-level for signature (Group-level delegation will continue to be reflected). Please see attached for your review before we proceed to ask the OCD to signoff on the DoA. Can you review all of the PDFs to make sure they accurately indicate the correct authority specific to tax waiver delegation? Once we confirm accuracy, **Rory, Amber, Jeremy** I think signature can be requested at an OCD TB or even offline?

Thank you

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 1, 2023 8:25 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hey Beverly. I just wanted to check to see if there was any updates that you have in terms of the delegation of signature authority for tax waivers. Please let us know if there is any way that the tax team can help. Thank you.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Wednesday, February 1, 2023 2:35 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Thanks Beverly. We appreciate it.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 2:31 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Got it and working on it. Thanks

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 2:20 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Beverly,

1903(w)(3)(E)(ii) [42 USC 1396b (w)(3)(E)(ii)] would be the pertinent section. That's the section that talks about CMS approving tax waivers. Please let me know if I could be of further assistance. Thank you.

Best,

Jonathan

Jonathan Endelman
 Social Science Research Analyst
 Centers for Medicare & Medicaid Services (CMS)
 Center for Medicaid and CHIP Services (CMCS)
 Financial Management Group (FMG)
 Division of Financial Policy (DFP)
 410.786.4738
jonathan.endelman@cms.hhs.gov
 7500 Security Blvd.
 Mail Stop, S3-14-28
 Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 1:47 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hi Jonathan,

See below Delegations of Authority (DoAs) that are related to taxes. We did request delegation at the Group Dir level which is why Rory is able to sign so this is not the latest. Can you confirm which DoAs would be pertinent to the tax letters that Rory signs?

87	<u>1903(w)(2)(B)</u> [42 USC 1396b(w) (2)(B)]	Determine that the State has satisfactorily established that a provider-related donation has no direct or indirect relationship to payments made, under Title XIX of the Social Security Act, to that provider, to providers furnishing the same class of items and services as the provider, or to any related entity.	Deputy Administrator & Dir/Dep Dir, CMCS	
88	<u>1903(w)(3)(C)(i)(IV)</u> [42 USC 1396b(w) (3)(C)(i)(IV)]	Determine that the State has satisfactorily established that any other tax has been imposed uniformly with respect to a health care related tax.	Deputy Administrator & Dir/Dep Dir, CMCS	
89	<u>1903(w)(3)(E)(i)</u> [42 USC 1396b(w) (3)(E)(i)]	Treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in a class (or all providers of such items and services), provides for a credit, deduction, or	Deputy Administrator & Dir/Dep Dir, CMCS	

		exclusion, is not applied uniformly, or otherwise does not meet the requirements of Section 1903(w)(3)(B) or (C) of the Social Security Act with respect to an application submitted by a State.		
90	<u>1903(w)(3)(E)(ii)</u> [42 USC 1396b (w)(3)(E)(ii)]	Approve such application if the State satisfactorily establishes that : (1) The net impact of the tax and associated expenditures under Title XIX of the Social Security Act as proposed by the State is generally redistributive in nature, and (2) The amount of the tax is not directly correlated to payments under Title XIX of the Social Security Act for items or services with respect to which the tax is imposed with respect to an application submitted by a State requesting that a tax be treated as a broad-based health care related tax.	Deputy Administrator & Dir/Dep Dir, CMCS	
91	<u>1903(w)(4)</u> [42 USC 1396b(w) (4)]	Determine that any of the following applies: (1) The State or other unit of Government imposing the tax provides (directly or indirectly) for a payment (other than under Title XIX of the Social Security Act) to taxpayers, and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of the payment under the State plan; and (2) All or any portion of the payment under Title XIX of the Social Security Act to the taxpayer varies based only upon the amount of the total tax paid; and (C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax with respect to a broad-based health care related tax imposed with respect to a class of items or services.	Deputy Administrator & Dir/Dep Dir, CMCS	Amended per Section 403 of Public Law 109-432, 12/20/06
92	<u>1903(w)(5)(B)(ii)</u> [42 USC 1396b(w) (5)(B)(ii)]	Project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year Authority, with respect to a tax, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, that is not in effect throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	
93	<u>1903(w)(5)(C)(i)</u> [42 USC 1396b(w) (5)(C)(i)]	Determine the total amount of health care related taxes, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, based on only those taxes (including the tax rate or base) which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	
94	<u>1903(w)(5)(C)(ii)</u> [42 USC 1396b(w) (5)(C)(ii)]	Determine the amount of provider-related donations, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, based on programs in	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	

	effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.	
--	--	--

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:36 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Thanks assisting us with this Beverly. We appreciate it.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:34 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hi Jonathan,

Thanks for this reminder to the team and also me to confirm the Delegation of Authority for tax wavier signatures. I will look into this signatory level and will circle back.

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:26 AM
To: Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>
Subject: FW: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Dear team,

North Carolina inquired today regarding the status of their revised NF tax waiver. The revised North Carolina NF and the two Michigan NFs still need to be signed by Rory. Since we have implemented the double checklist check in the future, we feel confident that situations such as the NC NF will not occur in the future. As a reminder, the NC NF tax waiver that we sent to Rory originally for signature was incorrect. We then sent him a revised version, which was also incorrect. We have since sent him a third, correct version, that is waiting to be signed. The new process involves checking the tax waiver checklist twice. The first time is before we put it on FMG internal clearance. The second time is after we present at FMG internal clearance and before we send an email to Rory for signature. After we check the checklist, as a way of ensuring that we have done it, I recommend sending an email to the team each time informing them that we have completed the checklist. We have followed this process for MI's NF tax waivers. As a result, this will not happen again.

In general, we do have an issue that documents that we send to Rory for signature may not get signed expeditiously. Given the volume of work Rory has this is certainly understandable. I recommend pursuing the option of investigating signature authority procedures to see if someone else may sign documents for Rory and, if so, who. Rory himself mentioned that this would be his preference. I think we should follow up on that. In general, I think we should also convene a working group to suggest and solicit feedback regarding these types of process improvements to help things work better, which after all never is complete. We can always do things better and more efficiently.

I look forward to more discussion on these topics.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>
Sent: Wednesday, February 1, 2023 11:16 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>

Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

This message was sent securely using Zix®

Awesome! Thanks so much for the information. We will keep this mind when sending emails in the future.

Cecilia Williams

State Plan and Amendments Coordinator

NC Medicaid

Division of Health Benefits

NC Department of Health and Human Services



Vax Up OR **Mask Up**

Find a vaccine location, get questions answered and more at YourSpotYourShot.nc.gov.

Mobile: b(6)
Office: (919) 527-7105

Cecilia.Williams@dhhs.nc.gov

820 S. Boylan Ave., McBryde Building
1950 Mail Service Center
Raleigh, NC 27699-1950

[Twitter](#) | [Facebook](#) | [YouTube](#) | [LinkedIn](#)

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Wednesday, February 1, 2023 11:15 AM

To: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>

Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Subject: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Thank you for checking. There was one individual who used to work with the CMS tax team but has since retired. His name is Jim Burns. He was our technical director in the Division of Financial Policy. His email address is no longer valid because he retired. He is copied on the email that you replied to. That is why you are getting the error message.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>
Sent: Wednesday, February 1, 2023 11:12 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>
Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>
Subject: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

This message was sent securely using Zix®

Good morning, Jonathan!

An update was requested in a previous email. However, I received an “undeliverable” message and wanted to resend just to make sure it was not associated with your email address. Can you provide an update on the revised approval mentioned in the subject line above.

Thanks!

Cecilia Williams
State Plan and Amendments Coordinator
NC Medicaid (Benefits and Services)

Mobile: b(6)
Office: (919) 527-7105



Vax Up OR **Mask Up**

Find a vaccine location, get questions answered and more at YourSpotYourShot.nc.gov.

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized State official. Unauthorized disclosure of juvenile, health, legally privileged, or otherwise confidential information, including confidential information relating to an ongoing State procurement effort, is prohibited by law. If you have received this email in error, please notify the sender immediately and delete all records of this email.

This message was secured by Zix®.

This message was secured by Zix®.

Message

From: Maccarroll, Amber (CMS/CMCS) <[REDACTED]> b(6)
[REDACTED] b(6)
Sent: 3/3/2023 1:28:41 PM
To: Howe, Rory (CMS/CMCS) <[REDACTED]> b(6)
[REDACTED] b(6)
Subject: RE: RE: Re-Delegation of Authority for Tax Waiver signatures!

Okay – I didn't realize that. We can talk at 8:45

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Friday, March 3, 2023 8:19 AM
To: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: RE: Re-Delegation of Authority for Tax Waiver signatures!

Hey, Amber. We can talk at our touch base, but FYI I think there was a misunderstanding here. When I meant someone else could sign the letters, I meant someone actually signing the name (like DRR does), not delegating formally. I'm not definitively opposed to the delegation, but we should discuss.

From: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Sent: Friday, March 3, 2023 7:39 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: RE: Re-Delegation of Authority for Tax Waiver signatures!

Thanks Beverly! Our next OCD touch base is on March 9th – we can plan take this up at that time.

Thanks, Amber

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, March 1, 2023 5:04 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: Re-Delegation of Authority for Tax Waiver signatures!

Hello Jonathan and DFP/DOB,

I did work with OHC to have tax waiver signatures re-delegated to the DFP Director-level for signature (Group-level delegation will continue to be reflected). Please see attached for your review before we proceed to ask the OCD to signoff on the DoA. Can you review all of the PDFs to make sure they accurately indicate the correct authority specific to tax waiver delegation? Once we confirm accuracy, **Rory, Amber, Jeremy** I think signature can be requested at an OCD TB or even offline?

Thank you

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 1, 2023 8:25 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hey Beverly. I just wanted to check to see if there was any updates that you have in terms of the delegation of signature authority for tax waivers. Please let us know if there is any way that the tax team can help. Thank you.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Wednesday, February 1, 2023 2:35 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Thanks Beverly. We appreciate it.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 2:31 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Got it and working on it. Thanks

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 2:20 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Beverly,

1903(w)(3)(E)(ii) [42 USC 1396b (w)(3)(E)(ii)] would be the pertinent section. That's the section that talks about CMS approving tax waivers. Please let me know if I could be of further assistance. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 1:47 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hi Jonathan,

See below Delegations of Authority (DoAs) that are related to taxes. We did request delegation at the Group Dir level which is why Rory is able to sign so this is not the latest. Can you confirm which DoAs would be pertinent to the tax letters that Rory signs?

87	<u>1903(w)(2)(B)</u> [42 USC 1396b(w) (2)(B)]	Determine that the State has satisfactorily established that a provider-related donation has no direct or indirect relationship to payments made, under Title XIX of the Social Security Act, to that provider, to providers furnishing the same class of items and services as the provider, or to any related entity.	Deputy Administrator & Dir/Dep Dir, CMCS	
----	---	---	--	--

88	<u>1903(w)(3)(C)(i)(IV)</u> [42 USC 1396b(w)(3)(C)(i)(IV)]	Determine that the State has satisfactorily established that any other tax has been imposed uniformly with respect to a health care related tax.	Deputy Administrator & Dir/Dep Dir, CMCS	
89	<u>1903(w)(3)(E)(i)</u> [42 USC 1396b(w)(3)(E)(i)]	Treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in a class (or all providers of such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of Section 1903(w)(3)(B) or (C) of the Social Security Act with respect to an application submitted by a State.	Deputy Administrator & Dir/Dep Dir, CMCS	
90	<u>1903(w)(3)(E)(ii)</u> [42 USC 1396b(w)(3)(E)(ii)]	Approve such application if the State satisfactorily establishes that : (1) The net impact of the tax and associated expenditures under Title XIX of the Social Security Act as proposed by the State is generally redistributive in nature, and (2) The amount of the tax is not directly correlated to payments under Title XIX of the Social Security Act for items or services with respect to which the tax is imposed with respect to an application submitted by a State requesting that a tax be treated as a broad-based health care related tax.	Deputy Administrator & Dir/Dep Dir, CMCS	
91	<u>1903(w)(4)</u> [42 USC 1396b(w)(4)]	Determine that any of the following applies: (1) The State or other unit of Government imposing the tax provides (directly or indirectly) for a payment (other than under Title XIX of the Social Security Act) to taxpayers, and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of the payment under the State plan; and (2) All or any portion of the payment under Title XIX of the Social Security Act to the taxpayer varies based only upon the amount of the total tax paid; and (C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax with respect to a broad-based health care related tax imposed with respect to a class of items or services.	Deputy Administrator & Dir/Dep Dir, CMCS	Amended per Section 403 of Public Law 109-432, 12/20/06
92	<u>1903(w)(5)(B)(ii)</u> [42 USC 1396b(w)(5)(B)(ii)]	Project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year Authority, with respect to a tax, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, that is not in effect throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	

93	1903(w)(5)(C)(i) [42 USC 1396b(w) (5)(C)(i)]	Determine the total amount of health care related taxes, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, based on only those taxes (including the tax rate or base) which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	
94	1903(w)(5)(C)(ii) [42 USC 1396b(w) (5)(C)(ii)]	Determine the amount of provider-related donations, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, based on programs in effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:36 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Thanks assisting us with this Beverly. We appreciate it.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:34 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hi Jonathan,

Thanks for this reminder to the team and also me to confirm the Delegation of Authority for tax waiver signatures. I will look into this signatory level and will circle back.

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Wednesday, February 1, 2023 11:26 AM

To: Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>

Subject: FW: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Dear team,

North Carolina inquired today regarding the status of their revised NF tax waiver. The revised North Carolina NF and the two Michigan NFs still need to be signed by Rory. Since we have implemented the double checklist check in the future, we feel confident that situations such as the NC NF will not occur in the future. As a reminder, the NC NF tax waiver that we sent to Rory originally for signature was incorrect. We then sent him a revised version, which was also incorrect. We have since sent him a third, correct version, that is waiting to be signed. The new process involves checking the tax waiver checklist twice. The first time is before we put it on FMG internal clearance. The second time is after we present at FMG internal clearance and before we send an email to Rory for signature. After we check the checklist, as a way of ensuring that we have done it, I recommend sending an email to the team each time informing them that we have completed the checklist. We have followed this process for MI's NF tax waivers. As a result, this will not happen again.

In general, we do have an issue that documents that we send to Rory for signature may not get signed expeditiously. Given the volume of work Rory has this is certainly understandable. I recommend pursuing the option of investigating signature authority procedures to see if someone else may sign documents for Rory and, if so, who. Rory himself mentioned that this would be his preference. I think we should follow up on that. In general, I think we should also convene a working group to suggest and solicit feedback regarding these types of process improvements to help things work better, which after all never is complete. We can always do things better and more efficiently.

I look forward to more discussion on these topics.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.

Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>
Sent: Wednesday, February 1, 2023 11:16 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>
Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

This message was sent securely using Zix®

Awesome! Thanks so much for the information. We will keep this mind when sending emails in the future.

Cecilia Williams
State Plan and Amendments Coordinator
NC Medicaid
Division of Health Benefits
[NC Department of Health and Human Services](http://www.ncdhhs.gov)



Vax Up OR **Mask Up**

Find a vaccine location, get questions answered and more at YourSpotYourShot.nc.gov.

Mobile:
Office: (919) 527-7105

Cecilia.Williams@dhhs.nc.gov

820 S. Boylan Ave., McBryde Building
1950 Mail Service Center
Raleigh, NC 27699-1950

[Twitter](#) | [Facebook](#) | [YouTube](#) | [LinkedIn](#)

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:15 AM
To: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>
Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>
Subject: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Thank you for checking. There was one individual who used to work with the CMS tax team but has since retired. His name is Jim Burns. He was our technical director in the Division of Financial Policy. His email address is no longer valid because he retired. He is copied on the email that you replied to. That is why you are getting the error message.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>
Sent: Wednesday, February 1, 2023 11:12 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>
Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>
Subject: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

This message was sent securely using Zix®

Good morning, Jonathan!

An update was requested in a previous email. However, I received an “undeliverable” message and wanted to resend just to make sure it was not associated with your email address. Can you provide an update on the revised approval mentioned in the subject line above.

Thanks!

Cecilia Williams
State Plan and Amendments Coordinator
NC Medicaid (Benefits and Services)

Mobile: b(6)
Office: (919) 527-7105



Vax Up OR **Mask Up**

Find a vaccine location, get questions answered and more at [YourSpotYourShot.nc.gov](https://www.nc.gov/YourSpotYourShot).

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized State official. Unauthorized disclosure of juvenile, health, legally privileged, or otherwise confidential information, including confidential information relating to an ongoing State procurement effort, is prohibited by law. If you have received this email in error, please notify the sender immediately and delete all records of this email.

This message was secured by Zix[®].

This message was secured by Zix[®].

Message

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov> [redacted]
[redacted] b(6)
Sent: 3/3/2023 7:39:14 PM
To: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov> [redacted] b(6)
[redacted]; Endelman (he/him),
[redacted]; Arnold, Charlie
[redacted] Clark, Jennifer
[redacted] Goldstein, Stuart
CC: [redacted] Silanskis, Jeremy
[redacted] Fan, Kristin (CMS/CMCS)
Subject: RE: RE: Re-Delegation of Authority for Tax Waiver signatures!

Thanks Amber!

Beverly

From: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Sent: Friday, March 3, 2023 7:39 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: RE: Re-Delegation of Authority for Tax Waiver signatures!

Thanks Beverly! Our next OCD touch base is on March 9th – we can plan take this up at that time.

Thanks, Amber

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, March 1, 2023 5:04 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: Re-Delegation of Authority for Tax Waiver signatures!

Hello Jonathan and DFP/DOB,

I did work with OHC to have tax waiver signatures re-delegated to the DFP Director-level for signature (Group-level

delegation will continue to be reflected). Please see attached for your review before we proceed to ask the OCD to signoff on the DoA. Can you review all of the PDFs to make sure they accurately indicate the correct authority specific to tax waiver delegation? Once we confirm accuracy, **Rory, Amber, Jeremy** I think signature can be requested at an OCD TB or even offline?

Thank you

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 1, 2023 8:25 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hey Beverly. I just wanted to check to see if there was any updates that you have in terms of the delegation of signature authority for tax waivers. Please let us know if there is any way that the tax team can help. Thank you.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Wednesday, February 1, 2023 2:35 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Thanks Beverly. We appreciate it.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov

7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 2:31 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Got it and working on it. Thanks

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 2:20 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Beverly,

1903(w)(3)(E)(ii) [42 USC 1396b (w)(3)(E)(ii)] would be the pertinent section. That's the section that talks about CMS approving tax waivers. Please let me know if I could be of further assistance. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 1:47 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hi Jonathan,

See below Delegations of Authority (DoAs) that are related to taxes. We did request delegation at the Group Dir level which is why Rory is able to sign so this is not the latest. Can you confirm which DoAs would be pertinent to the tax letters that Rory signs?

87	<u>1903(w)(2)(B)</u>	Determine that the State has satisfactorily established that a	Deputy Administrator & Dir/Dep Dir, CMCS	
----	----------------------	--	--	--

	[42 USC 1396b(w) (2)(B)]	provider-related donation has no direct or indirect relationship to payments made, under Title XIX of the Social Security Act, to that provider, to providers furnishing the same class of items and services as the provider, or to any related entity.		
88	<u>1903(w)(3)(C)(i)(IV)</u> [42 USC 1396b(w) (3)(C)(i)(IV)]	Determine that the State has satisfactorily established that any other tax has been imposed uniformly with respect to a health care related tax.	Deputy Administrator & Dir/Dep Dir, CMCS	
89	<u>1903(w)(3)(E)(i)</u> [42 USC 1396b(w) (3)(E)(i)]	Treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in a class (or all providers of such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of Section 1903(w)(3)(B) or (C) of the Social Security Act with respect to an application submitted by a State.	Deputy Administrator & Dir/Dep Dir, CMCS	
90	<u>1903(w)(3)(E)(ii)</u> [42 (USC 1396b (w)(3)(E)(ii)]	Approve such application if the State satisfactorily establishes that : (1) The net impact of the tax and associated expenditures under Title XIX of the Social Security Act as proposed by the State is generally redistributive in nature, and (2) The amount of the tax is not directly correlated to payments under Title XIX of the Social Security Act for items or services with respect to which the tax is imposed with respect to an application submitted by a State requesting that a tax be treated as a broad-based health care related tax.	Deputy Administrator & Dir/Dep Dir, CMCS	
91	<u>1903(w)(4)</u> [42 USC 1396b(w) (4)]	Determine that any of the following applies: (1) The State or other unit of Government imposing the tax provides (directly or indirectly) for a payment (other than under Title XIX of the Social Security Act) to taxpayers, and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of the payment under the State plan; and (2) All or any portion of the payment under Title XIX of the Social Security Act to the taxpayer varies based only upon the amount of the total tax paid; and (C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax with respect to a broad-based health care related tax imposed with respect to a class of items or services.	Deputy Administrator & Dir/Dep Dir, CMCS	Amended per Section 403 of Public Law 109-432, 12/20/06
92	<u>1903(w)(5)(B)(ii)</u> [42 USC 1396b(w) (5)(B)(ii)]	Project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year Authority, with	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	

		respect to a tax, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, that is not in effect throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal.		
93	<u>1903(w)(5)(C)(i)</u> [42 USC 1396b(w)(5)(C)(i)]	Determine the total amount of health care related taxes, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, based on only those taxes (including the tax rate or base) which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	
94	<u>1903(w)(5)(C)(ii)</u> [42 USC 1396b(w)(5)(C)(ii)]	Determine the amount of provider-related donations, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, based on programs in effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:36 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Thanks assisting us with this Beverly. We appreciate it.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:34 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>;

Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>

Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hi Jonathan,

Thanks for this reminder to the team and also me to confirm the Delegation of Authority for tax waiver signatures. I will look into this signatory level and will circle back.

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Wednesday, February 1, 2023 11:26 AM

To: Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>

Subject: FW: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Dear team,

North Carolina inquired today regarding the status of their revised NF tax waiver. The revised North Carolina NF and the two Michigan NFs still need to be signed by Rory. Since we have implemented the double checklist check in the future, we feel confident that situations such as the NC NF will not occur in the future. As a reminder, the NC NF tax waiver that we sent to Rory originally for signature was incorrect. We then sent him a revised version, which was also incorrect. We have since sent him a third, correct version, that is waiting to be signed. The new process involves checking the tax waiver checklist twice. The first time is before we put it on FMG internal clearance. The second time is after we present at FMG internal clearance and before we send an email to Rory for signature. After we check the checklist, as a way of ensuring that we have done it, I recommend sending an email to the team each time informing them that we have completed the checklist. We have followed this process for MI's NF tax waivers. As a result, this will not happen again.

In general, we do have an issue that documents that we send to Rory for signature may not get signed expeditiously. Given the volume of work Rory has this is certainly understandable. I recommend pursuing the option of investigating signature authority procedures to see if someone else may sign documents for Rory and, if so, who. Rory himself mentioned that this would be his preference. I think we should follow up on that. In general, I think we should also convene a working group to suggest and solicit feedback regarding these types of process improvements to help things work better, which after all never is complete. We can always do things better and more efficiently.

I look forward to more discussion on these topics.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)

Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>
Sent: Wednesday, February 1, 2023 11:16 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>
Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

This message was sent securely using Zix®

Awesome! Thanks so much for the information. We will keep this mind when sending emails in the future.

Cecilia Williams
State Plan and Amendments Coordinator
NC Medicaid
Division of Health Benefits
NC Department of Health and Human Services



Vax Up OR **Mask Up**

Find a vaccine location, get questions answered and more at YourSpotYourShot.nc.gov.

Mobile:
Office: (919) 527-7105

Cecilia.Williams@dhhs.nc.gov

820 S. Boylan Ave., McBryde Building
1950 Mail Service Center
Raleigh, NC 27699-1950

[Twitter](#) | [Facebook](#) | [YouTube](#) | [LinkedIn](#)

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:15 AM
To: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>

Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Subject: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Thank you for checking. There was one individual who used to work with the CMS tax team but has since retired. His name is Jim Burns. He was our technical director in the Division of Financial Policy. His email address is no longer valid because he retired. He is copied on the email that you replied to. That is why you are getting the error message.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>

Sent: Wednesday, February 1, 2023 11:12 AM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>

Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Subject: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

This message was sent securely using Zix®

Good morning, Jonathan!

An update was requested in a previous email. However, I received an “undeliverable” message and wanted to resend just to make sure it was not associated with your email address. Can you provide an update on the revised approval mentioned in the subject line above.

Thanks!

Cecilia Williams

State Plan and Amendments Coordinator
NC Medicaid (Benefits and Services)

Mobile: b(6)
Office: (919) 527-7105



Vax Up **OR** **Mask Up**

Find a vaccine location, get questions answered and more at YourSpotYourShot.nc.gov.

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized State official. Unauthorized disclosure of juvenile, health, legally privileged, or otherwise confidential information, including confidential information relating to an ongoing State procurement effort, is prohibited by law. If you have received this email in error, please notify the sender immediately and delete all records of this email.

This message was secured by Zix[®].

This message was secured by Zix[®].

Message

From: Endelman (he/him), Jonathan (CMS/CMCS) [redacted] b(6)
Sent: 3/6/2023 3:08:26 PM
To: Boston, Beverly (CMS/CMCS) [redacted] b(6); Maccarroll, Amber
]; Arnold, Charlie
]; Clark, Jennifer
]; Goldstein, Stuart
]
CC: Silanskis, Jeremy
]; Fan, Kristin (CMS/CMCS)
Subject: RE: RE: Re-Delegation of Authority for Tax Waiver signaturesl

Beverly,

The statutory cite for the authority appears to be correct. Section 1903 [42 U.S.C. 1396b] (w)(3)(E)(ii) of the Social Security Act. That is the section that deals with the Secretary approving health care-related tax waivers for the broad-based and uniformity provisions and provides that the Secretary shall approve such waivers if the state establishes to the satisfaction of the Secretary that the tax is generally redistributive and not directly correlated to Medicaid payments. This would cover both waivers of the broad-based requirement only as well as waivers of the uniformity requirement whether or not the tax is broad-based. Those are the only two health care-related tax requirements that can be waived. Please let me know if I can be of any further assistance.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Friday, March 3, 2023 2:39 PM
To: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: RE: Re-Delegation of Authority for Tax Waiver signatures!

Thanks Amber!

Beverly

From: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Sent: Friday, March 3, 2023 7:39 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: RE: Re-Delegation of Authority for Tax Waiver signatures!

Thanks Beverly! Our next OCD touch base is on March 9th – we can plan take this up at that time.

Thanks, Amber

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, March 1, 2023 5:04 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: Re-Delegation of Authority for Tax Waiver signatures!

Hello Jonathan and DFP/DOB,

I did work with OHC to have tax waiver signatures re-delegated to the DFP Director-level for signature (Group-level delegation will continue to be reflected). Please see attached for your review before we proceed to ask the OCD to signoff on the DoA. Can you review all of the PDFs to make sure they accurately indicate the correct authority specific to tax waiver delegation? Once we confirm accuracy, **Rory, Amber, Jeremy** I think signature can be requested at an OCD TB or even offline?

Thank you

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 1, 2023 8:25 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hey Beverly. I just wanted to check to see if there was any updates that you have in terms of the delegation of signature authority for tax waivers. Please let us know if there is any way that the tax team can help. Thank you.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Wednesday, February 1, 2023 2:35 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Thanks Beverly. We appreciate it.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 2:31 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Got it and working on it. Thanks

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 2:20 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Beverly,

1903(w)(3)(E)(ii) [42 (USC 1396b (w)(3)(E)(ii)] would be the pertinent section. That's the section that talks about CMS approving tax waivers. Please let me know if I could be of further assistance. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Wednesday, February 1, 2023 1:47 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hi Jonathan,

See below Delegations of Authority (DoAs) that are related to taxes. We did request delegation at the Group Dir level which is why Rory is able to sign so this is not the latest. Can you confirm which DoAs would be pertinent to the tax letters that Rory signs?

87	<u>1903(w)(2)(B)</u> [42 USC 1396b(w) (2)(B)]	Determine that the State has satisfactorily established that a provider-related donation has no direct or indirect relationship to payments made, under Title XIX of the Social Security Act, to that provider, to providers furnishing the same class of items and services as the provider, or to any related entity.	Deputy Administrator & Dir/Dep Dir, CMCS	
88	<u>1903(w)(3)(C)(i)(IV)</u> [42 USC 1396b(w) (3)(C)(i)(IV)]	Determine that the State has satisfactorily established that any other tax has been imposed uniformly with respect to a health care related tax.	Deputy Administrator & Dir/Dep Dir, CMCS	
89	<u>1903(w)(3)(E)(i)</u> [42 USC 1396b(w) (3)(E)(i)]	Treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in a class (or all providers of such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of Section 1903(w)(3)(B) or (C) of the Social Security Act with respect to an application submitted by a State.	Deputy Administrator & Dir/Dep Dir, CMCS	

90	<u>1903(w)(3)(E)(ii)</u> [42 USC 1396b (w)(3)(E)(ii)]	Approve such application if the State satisfactorily establishes that : (1) The net impact of the tax and associated expenditures under Title XIX of the Social Security Act as proposed by the State is generally redistributive in nature, and (2) The amount of the tax is not directly correlated to payments under Title XIX of the Social Security Act for items or services with respect to which the tax is imposed with respect to an application submitted by a State requesting that a tax be treated as a broad-based health care related tax.	Deputy Administrator & Dir/Dep Dir, CMCS	
91	<u>1903(w)(4)</u> [42 USC 1396b(w) (4)]	Determine that any of the following applies: (1) The State or other unit of Government imposing the tax provides (directly or indirectly) for a payment (other than under Title XIX of the Social Security Act) to taxpayers, and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of the payment under the State plan; and (2) All or any portion of the payment under Title XIX of the Social Security Act to the taxpayer varies based only upon the amount of the total tax paid; and (C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax with respect to a broad-based health care related tax imposed with respect to a class of items or services.	Deputy Administrator & Dir/Dep Dir, CMCS	Amended per Section 403 of Public Law 109-432, 12/20/06
92	<u>1903(w)(5)(B)(ii)</u> [42 USC 1396b(w) (5)(B)(ii)]	Project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year Authority, with respect to a tax, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, that is not in effect throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	
93	<u>1903(w)(5)(C)(i)</u> [42 USC 1396b(w) (5)(C)(i)]	Determine the total amount of health care related taxes, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, based on only those taxes (including the tax rate or base) which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	
94	<u>1903(w)(5)(C)(ii)</u> [42 USC 1396b(w) (5)(C)(ii)]	Determine the amount of provider-related donations, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, based on programs in effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:36 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Thanks assisting us with this Beverly. We appreciate it.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:34 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hi Jonathan,

Thanks for this reminder to the team and also me to confirm the Delegation of Authority for tax wavier signatures. I will look into this signatory level and will circle back.

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:26 AM
To: Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart

(CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>

Subject: FW: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Dear team,

North Carolina inquired today regarding the status of their revised NF tax waiver. The revised North Carolina NF and the two Michigan NFs still need to be signed by Rory. Since we have implemented the double checklist check in the future, we feel confident that situations such as the NC NF will not occur in the future. As a reminder, the NC NF tax waiver that we sent to Rory originally for signature was incorrect. We then sent him a revised version, which was also incorrect. We have since sent him a third, correct version, that is waiting to be signed. The new process involves checking the tax waiver checklist twice. The first time is before we put it on FMG internal clearance. The second time is after we present at FMG internal clearance and before we send an email to Rory for signature. After we check the checklist, as a way of ensuring that we have done it, I recommend sending an email to the team each time informing them that we have completed the checklist. We have followed this process for MI's NF tax waivers. As a result, this will not happen again.

In general, we do have an issue that documents that we send to Rory for signature may not get signed expeditiously. Given the volume of work Rory has this is certainly understandable. I recommend pursuing the option of investigating signature authority procedures to see if someone else may sign documents for Rory and, if so, who. Rory himself mentioned that this would be his preference. I think we should follow up on that. In general, I think we should also convene a working group to suggest and solicit feedback regarding these types of process improvements to help things work better, which after all never is complete. We can always do things better and more efficiently.

I look forward to more discussion on these topics.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>

Sent: Wednesday, February 1, 2023 11:16 AM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>

Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

This message was sent securely using Zix®

Awesome! Thanks so much for the information. We will keep this mind when sending emails in the future.

Cecilia Williams

CMS003255cv1579

State Plan and Amendments Coordinator
NC Medicaid
Division of Health Benefits
NC Department of Health and Human Services



Vax Up OR **Mask Up**

Find a vaccine location, get questions answered and more at YourSpotYourShot.nc.gov.

Mobile:
Office: (919) 527-7105

Cecilia.Williams@dhhs.nc.gov

820 S. Boylan Ave., McBryde Building
1950 Mail Service Center
Raleigh, NC 27699-1950

[Twitter](#) | [Facebook](#) | [YouTube](#) | [LinkedIn](#)

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:15 AM
To: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>
Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>
Subject: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Thank you for checking. There was one individual who used to work with the CMS tax team but has since retired. His name is Jim Burns. He was our technical director in the Division of Financial Policy. His email address is no longer valid because he retired. He is copied on the email that you replied to. That is why you are getting the error message.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738

jonathan.endelman@cms.hhs.gov

7500 Security Blvd.

Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>

Sent: Wednesday, February 1, 2023 11:12 AM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>

Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Subject: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

This message was sent securely using Zix®

Good morning, Jonathan!

An update was requested in a previous email. However, I received an “undeliverable” message and wanted to resend just to make sure it was not associated with your email address. Can you provide an update on the revised approval mentioned in the subject line above.

Thanks!

Cecilia Williams

State Plan and Amendments Coordinator

NC Medicaid (Benefits and Services)

Mobile: b(6)

Office: (919) 527-7105



Vax Up **OR** **Mask Up**

Find a vaccine location, get questions answered and more at YourSpotYourShot.nc.gov.

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized State official. Unauthorized disclosure of juvenile, health, legally privileged, or otherwise confidential information, including confidential information relating to an ongoing State procurement effort, is prohibited by law. If you have received this email in error, please notify the sender immediately and delete all records of this email.

This message was secured by **Zix**®.

This message was secured by **Zix**®.

Message

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov> [redacted]
Sent: 3/6/2023 3:22:30 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov> [redacted]; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov> [redacted]; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov> [redacted]; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov> [redacted]; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov> [redacted]; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov> [redacted]; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov> [redacted]
CC: [redacted]
Subject: RE: RE: Re-Delegation of Authority for Tax Waiver signatures [redacted]

Good morning Jonathan,

Perfect. Thanks for confirming. Amber please let us know when the OCD has signed post your TB on 3/9.

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Monday, March 6, 2023 10:08 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: RE: Re-Delegation of Authority for Tax Waiver signatures

Beverly,

The statutory cite for the authority appears to be correct. Section 1903 [42 U.S.C. 1396b] (w)(3)(E)(ii) of the Social Security Act. That is the section that deals with the Secretary approving health care-related tax waivers for the broad-based and uniformity provisions and provides that the Secretary shall approve such waivers if the state establishes to the satisfaction of the Secretary that the tax is generally redistributive and not directly correlated to Medicaid payments. This would cover both waivers of the broad-based requirement only as well as waivers of the uniformity requirement whether or not the tax is broad-based. Those are the only two health care-related tax requirements that can be waived. Please let me know if I can be of any further assistance.

Best,

Jonathan

Jonathan Endelman, PhD

Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Friday, March 3, 2023 2:39 PM
To: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: RE: Re-Delegation of Authority for Tax Waiver signatures!

Thanks Amber!

Beverly

From: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Sent: Friday, March 3, 2023 7:39 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: RE: Re-Delegation of Authority for Tax Waiver signatures!

Thanks Beverly! Our next OCD touch base is on March 9th – we can plan take this up at that time.

Thanks, Amber

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, March 1, 2023 5:04 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: Re-Delegation of Authority for Tax Waiver signatures!

Hello Jonathan and DFP/DOB,

I did work with OHC to have tax waiver signatures re-delegated to the DFP Director-level for signature (Group-level delegation will continue to be reflected). Please see attached for your review before we proceed to ask the OCD to signoff on the DoA. Can you review all of the PDFs to make sure they accurately indicate the correct authority specific to

tax waiver delegation? Once we confirm accuracy, **Rory, Amber, Jeremy** I think signature can be requested at an OCD TB or even offline?

Thank you

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 1, 2023 8:25 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hey Beverly. I just wanted to check to see if there was any updates that you have in terms of the delegation of signature authority for tax waivers. Please let us know if there is any way that the tax team can help. Thank you.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Wednesday, February 1, 2023 2:35 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Thanks Beverly. We appreciate it.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 2:31 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Got it and working on it. Thanks

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 2:20 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Beverly,

1903(w)(3)(E)(ii) [42 (USC 1396b (w)(3)(E)(ii))] would be the pertinent section. That's the section that talks about CMS approving tax waivers. Please let me know if I could be of further assistance. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 1:47 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hi Jonathan,

See below Delegations of Authority (DoAs) that are related to taxes. We did request delegation at the Group Dir level which is why Rory is able to sign so this is not the latest. Can you confirm which DoAs would be pertinent to the tax letters that Rory signs?

87	<u>1903(w)(2)(B)</u> [42 USC 1396b(w) (2)(B)]	Determine that the State has satisfactorily established that a provider-related donation has no direct or indirect relationship to payments made, under Title XIX of	Deputy Administrator & Dir/Dep Dir, CMCS	
----	---	--	--	--

		the Social Security Act, to that provider, to providers furnishing the same class of items and services as the provider, or to any related entity.		
88	<u>1903(w)(3)(C)(i)</u> (IV) [42 USC 1396b(w) (3)(C)(i)(IV)]	Determine that the State has satisfactorily established that any other tax has been imposed uniformly with respect to a health care related tax.	Deputy Administrator & Dir/Dep Dir, CMCS	
89	<u>1903(w)(3)(E)(i)</u> [42 USC 1396b(w) (3)(E)(i)]	Treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in a class (or all providers of such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of Section 1903(w)(3)(B) or (C) of the Social Security Act with respect to an application submitted by a State.	Deputy Administrator & Dir/Dep Dir, CMCS	
90	<u>1903(w)(3)(E)(ii)</u> [42 (USC 1396b (w)(3)(E)(ii)]	Approve such application if the State satisfactorily establishes that : (1) The net impact of the tax and associated expenditures under Title XIX of the Social Security Act as proposed by the State is generally redistributive in nature, and (2) The amount of the tax is not directly correlated to payments under Title XIX of the Social Security Act for items or services with respect to which the tax is imposed with respect to an application submitted by a State requesting that a tax be treated as a broad-based health care related tax.	Deputy Administrator & Dir/Dep Dir, CMCS	
91	<u>1903(w)(4)</u> [42 USC 1396b(w) (4)]	Determine that any of the following applies: (1) The State or other unit of Government imposing the tax provides (directly or indirectly) for a payment (other than under Title XIX of the Social Security Act) to taxpayers, and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of the payment under the State plan; and (2) All or any portion of the payment under Title XIX of the Social Security Act to the taxpayer varies based only upon the amount of the total tax paid; and (C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax with respect to a broad-based health care related tax imposed with respect to a class of items or services.	Deputy Administrator & Dir/Dep Dir, CMCS	Amended per Section 403 of Public Law 109-432, 12/20/06
92	<u>1903(w)(5)(B)(ii)</u> [42 USC 1396b(w) (5)(B)(ii)]	Project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year Authority, with respect to a tax, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, that is not in effect	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	

		throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal.		
93	<u>1903(w)(5)(C)(i)</u> [42 USC 1396b(w) (5)(C)(i)]	Determine the total amount of health care related taxes, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, based on only those taxes (including the tax rate or base) which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	
94	<u>1903(w)(5)(C)(ii)</u> [42 USC 1396b(w) (5)(C)(ii)]	Determine the amount of provider-related donations, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, based on programs in effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:36 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Thanks assisting us with this Beverly. We appreciate it.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:34 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Mosley, Elle (CMS/CMCS)

<larrica.mosley@cms.hhs.gov>

Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hi Jonathan,

Thanks for this reminder to the team and also me to confirm the Delegation of Authority for tax wavier signatures. I will look into this signatory level and will circle back.

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Wednesday, February 1, 2023 11:26 AM

To: Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>

Subject: FW: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Dear team,

North Carolina inquired today regarding the status of their revised NF tax waiver. The revised North Carolina NF and the two Michigan NFs still need to be signed by Rory. Since we have implemented the double checklist check in the future, we feel confident that situations such as the NC NF will not occur in the future. As a reminder, the NC NF tax waiver that we sent to Rory originally for signature was incorrect. We then sent him a revised version, which was also incorrect. We have since sent him a third, correct version, that is waiting to be signed. The new process involves checking the tax waiver checklist twice. The first time is before we put it on FMG internal clearance. The second time is after we present at FMG internal clearance and before we send an email to Rory for signature. After we check the checklist, as a way of ensuring that we have done it, I recommend sending an email to the team each time informing them that we have completed the checklist. We have followed this process for MI's NF tax waivers. As a result, this will not happen again.

In general, we do have an issue that documents that we send to Rory for signature may not get signed expeditiously. Given the volume of work Rory has this is certainly understandable. I recommend pursuing the option of investigating signature authority procedures to see if someone else may sign documents for Rory and, if so, who. Rory himself mentioned that this would be his preference. I think we should follow up on that. In general, I think we should also convene a working group to suggest and solicit feedback regarding these types of process improvements to help things work better, which after all never is complete. We can always do things better and more efficiently.

I look forward to more discussion on these topics.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)

410.786.4738

jonathan.endelman@cms.hhs.gov

7500 Security Blvd.

Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>

Sent: Wednesday, February 1, 2023 11:16 AM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>

Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

This message was sent securely using Zix®

Awesome! Thanks so much for the information. We will keep this mind when sending emails in the future.

Cecilia Williams

State Plan and Amendments Coordinator

NC Medicaid

Division of Health Benefits

[NC Department of Health and Human Services](http://www.ncdhhs.gov)



Vax Up OR **Mask Up**

Find a vaccine location, get questions answered and more at YourSpotYourShot.nc.gov.

Mobile: b(6)
Office: (919) 527-7105

Cecilia.Williams@dhhs.nc.gov

820 S. Boylan Ave., McBryde Building
1950 Mail Service Center
Raleigh, NC 27699-1950

[Twitter](#) | [Facebook](#) | [YouTube](#) | [LinkedIn](#)

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Wednesday, February 1, 2023 11:15 AM

To: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>

Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Subject: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Thank you for checking. There was one individual who used to work with the CMS tax team but has since retired. His name is Jim Burns. He was our technical director in the Division of Financial Policy. His email address is no longer valid because he retired. He is copied on the email that you replied to. That is why you are getting the error message.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>
Sent: Wednesday, February 1, 2023 11:12 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>
Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>
Subject: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

This message was sent securely using Zix®

Good morning, Jonathan!

An update was requested in a previous email. However, I received an “undeliverable” message and wanted to resend just to make sure it was not associated with your email address. Can you provide an update on the revised approval mentioned in the subject line above.

Thanks!

Cecilia Williams
State Plan and Amendments Coordinator
NC Medicaid (Benefits and Services)

Mobile: b(6)
Office: (919) 527-7105



Vax Up **OR** **Mask Up**

Find a vaccine location, get questions answered and more at YourSpotYourShot.nc.gov.

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized State official. Unauthorized disclosure of juvenile, health, legally privileged, or otherwise confidential information, including confidential information relating to an ongoing State procurement effort, is prohibited by law. If you have received this email in error, please notify the sender immediately and delete all records of this email.

This message was secured by Zix[®].

This message was secured by Zix[®].

Message

From: Ruben Soliz [ruben.soliz@azahcccs.gov]
Sent: 2/24/2023 8:40:56 PM
To: Endelman (he/him), Jonathan (CMS/CMCS); [REDACTED] b(6)
CC: [REDACTED] b(6)
Subject: Re: Re: FFY 2023 NF Assessment Waiver Request

Hi Jonathan,

My apologies. I received clarification from a subject matter expert here at AHCCCS and have a revised response to your question. Please see below. And please let me know if you need any additional info.

CMS: Just out of curiosity, why would a nursing facility that was located in a CCRC cease to be in a CCRC and remain in business? Did the non-NF parts of the facility (e.g. independent and assisted living) shut down and the NF part remain in business?

AZ Response: We received late confirmation after we sent the initial email that Christian Care is still a CCRC for FFY 2023. As a result, they continue to be exempt. Does CMS want us to resubmit the documents with Christian Care as exempt? It changes the net patient revenue calculation to 1.91 and the slope to 1.0334.

Thanks,

Ruben

Ruben Soliz, MPH (he/him)
Federal Relations and Health Policy Advisor
Arizona Health Care Cost Containment System
Phone: 602-417-4355
Website: www.azahcccs.gov
[Facebook](#) [Instagram](#) [Twitter](#) [LinkedIn](#) [YouTube](#)

Click [here](#) to learn about AHCCCS's Medicaid and CHIP State Plans.

On Fri, Feb 24, 2023 at 6:57 AM Ruben Soliz <ruben.soliz@azahcccs.gov> wrote:
Thank you!

Ruben Soliz, MPH (he/him)
Federal Relations and Health Policy Advisor
Arizona Health Care Cost Containment System
Phone: 602-417-4355
Website: www.azahcccs.gov
[Facebook](#) [Instagram](#) [Twitter](#) [LinkedIn](#) [YouTube](#)

Click [here](#) to learn about AHCCCS's Medicaid and CHIP State Plans.

On Fri, Feb 24, 2023 at 6:55 AM Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov> wrote:

Thanks Ruben. There is no need. Data changes like these happen often. Facilities open and facilities close. Please try to submit the most accurate and up to date data in the spreadsheets that you send with Arizona's tax waiver submissions.

Best,

Jonathan

Jonathan Endelman, PhD

Social Science Research Analyst

Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)

Financial Management Group (FMG)

Division of Financial Policy (DFP)

410.786.4738

jonathan.endelman@cms.hhs.gov

7500 Security Blvd.

Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Ruben Soliz <ruben.soliz@azahcccs.gov>

Sent: Thursday, February 23, 2023 5:33 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Cc: Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>

Subject: Re: FFY 2023 NF Assessment Waiver Request

Hi Jonathan,

Apologies for the delay!

That is correct. The non-NF parts of the facility shut down and the NF part remained in business. This was also the case in 2022. Would you like for us to resubmit the 2022 documents since it constitutes a minor change?

Thank You,

Ruben Soliz, MPH (he/him)
Federal Relations and Health Policy Advisor
Arizona Health Care Cost Containment System

Phone: 602-417-4355
Website: www.azahcccs.gov

[Facebook](#) [Instagram](#) [Twitter](#) [LinkedIn](#) [YouTube](#)

Click [here](#) to learn about AHCCCS's Medicaid and CHIP State Plans.

On Wed, Feb 15, 2023 at 9:52 AM Endelman (he/him), Jonathan (CMS/CMCS)
<Jonathan.Endelman@cms.hhs.gov> wrote:

Thanks Ruben. We appreciate the confirmation. Just out of curiosity, why would a nursing facility that was located in a CCRC cease to be in a CCRC and remain in business? Did the non-NF parts of the facility (e.g. independent and assisted living) shut down and the NF part remain in business? I am just trying to understand what went on here.

Best,

Jonathan

Jonathan Endelman, PhD

Social Science Research Analyst

Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)

Financial Management Group (FMG)

Division of Financial Policy (DFP)

410.786.4738

jonathan.endelman@cms.hhs.gov

7500 Security Blvd.

Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Ruben Soliz <ruben.soliz@azahcccs.gov>

Sent: Wednesday, February 15, 2023 10:12 AM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Cc: Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>

Subject: Re: FFY 2023 NF Assessment Waiver Request

Hi Jonathan,

I received this information from our staff:

That is correct that the update involved adding Christian Care. For FFY 2023, they are no longer exempt and have been assessed at the appropriate rate.

Please let me know if you need any additional information.

Thank You,

Ruben

Ruben Soliz, MPH (he/him)
Federal Relations and Health Policy Advisor
Arizona Health Care Cost Containment System

Phone: 602-417-4355
Website: www.azahcccs.gov

[Facebook](#) [Instagram](#) [Twitter](#) [LinkedIn](#) [YouTube](#)

Click [here](#) to learn about AHCCCS's Medicaid and CHIP State Plans.

On Tue, Feb 14, 2023 at 3:12 PM Ruben Soliz <ruben.soliz@azahcccs.gov> wrote:

Hi Jonathan,

I've checked in with our team on this and will get back to you with a response shortly.

Thanks,

Ruben

Ruben Soliz, MPH (he/him)
Federal Relations and Health Policy Advisor
Arizona Health Care Cost Containment System

Phone: 602-417-4355
Website: www.azahcccs.gov

[Facebook](#) [Instagram](#) [Twitter](#) [LinkedIn](#) [YouTube](#)

Click [here](#) to learn about AHCCCS's Medicaid and CHIP State Plans.

On Tue, Feb 14, 2023 at 7:23 AM Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov> wrote:

Ruben,

It looks like the missing facility was Christian Care Nursing Center. It looks like, in previous submissions, that this facility was a CCRC and was excluded. However, for this submission the facility does not appear to be a CCRC and does not appear to be excluded. Is this an error?

Best,

Jonathan

Jonathan Endelman, PhD

Social Science Research Analyst

Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)

Financial Management Group (FMG)

Division of Financial Policy (DFP)

410.786.4738

jonathan.endelman@cms.hhs.gov

7500 Security Blvd.

Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)

Sent: Tuesday, February 14, 2023 9:06 AM

To: Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>; Ruben Soliz <ruben.soliz@azahcccs.gov>

Subject: RE: FFY 2023 NF Assessment Waiver Request

Thanks Ruben. Which facility was missing?

Best,

Jonathan

Jonathan Endelman, PhD

Social Science Research Analyst

Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)

Financial Management Group (FMG)

Division of Financial Policy (DFP)

410.786.4738

jonathan.endelman@cms.hhs.gov

7500 Security Blvd.

Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>

Sent: Monday, February 13, 2023 10:11 AM

To: Ruben Soliz <ruben.soliz@azahcccs.gov>

Cc: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Subject: RE: FFY 2023 NF Assessment Waiver Request

Thank you Ruben!

From: Ruben Soliz <ruben.soliz@azahcccs.gov>

Sent: Friday, February 10, 2023 2:58 PM

To: Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>

Cc: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Subject: Re: FFY 2023 NF Assessment Waiver Request

Hi Mark,

Apologies for the delay on this. Our team has finalized the provider-level breakdown, which I'm attaching to this message with the file name "(Companion to FFY 23 NF Waiver Request)."

Also, we realized that one facility was missing from our original submission. The overall impact was minimal but we have revised both the NF Waiver Request Letter and the waiver illustration to reflect the addition of this facility. I'm attaching the revised version to this message.

Please let me know if you need any additional information.

Thank You,

Ruben

Ruben Soliz, MPH (he/him)
Federal Relations and Health Policy Advisor
Arizona Health Care Cost Containment System

Phone: 602-417-4355

Website: www.azahcccs.gov

[Facebook](#) [Instagram](#) [Twitter](#) [LinkedIn](#) [YouTube](#)

Click [here](#) to learn about AHCCCS's Medicaid and CHIP State Plans.

On Wed, Jan 18, 2023 at 12:21 PM Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov> wrote:

Thanks Ruben!

From: Ruben Soliz <ruben.soliz@azahcccs.gov>
Sent: Wednesday, January 18, 2023 11:04 AM
To: Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>
Cc: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: Re: FFY 2023 NF Assessment Waiver Request

Hi Mark,

I'm writing to follow-up on this message regarding the tax waiver. Please find our responses in red font below:

1. A provider-level breakdown of Medicaid payments funded by the tax and
AZ: Our actuaries are currently preparing this. We expect to have it ready within one week. I will send it over as soon as it is available.
2. A description of the programs that the tax is being used to fund.
AZ:
 - 99% of the funding is to provide medicaid supplemental payments to fund covered services to nursing facility medicaid beneficiaries.
 - 1% of the tax is retained by AHCCCS to offset administrative expenditures related to the operation of the program.

Please let me know if you need any additional information. Otherwise, I will be sure to send you the provider-level breakdown as soon as it is available.

Thanks!

Ruben

Ruben Soliz, MPH (he/him)
Federal Relations and Health Policy Advisor
Arizona Health Care Cost Containment System

Phone: 602-417-4355
Website: www.azahcccs.gov

[Facebook](#) [Instagram](#) [Twitter](#) [LinkedIn](#) [YouTube](#)

Click [here](#) to learn about AHCCCS's Medicaid and CHIP State Plans.

On Wed, Jan 4, 2023 at 10:03 AM Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov> wrote:

Hi Ruben – As part of tax waiver review process now, we are asking states to provide the following:

1. A provider-level breakdown of Medicaid payments funded by the tax and
2. A description of the programs that the tax is being used to fund.

Can you please work on this request? Thanks!

From: Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>
Sent: Tuesday, January 3, 2023 10:15 AM
To: Ruben Soliz <ruben.soliz@azahcccs.gov>
Subject: RE: FFY 2023 NF Assessment Waiver Request

Hi Ruben – Happy New Year!

Just want to acknowledge receipt of this waiver request. I have passed this on to Jonathan and the rest of the tax team for their further review.

Thanks!

Mark

From: Ruben Soliz <ruben.soliz@azahcccs.gov>
Sent: Friday, December 16, 2022 3:12 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>; Zolynas, Brian (CMS/CMCS) <Brian.Zolynas@cms.hhs.gov>
Subject: FFY 2023 NF Assessment Waiver Request

Hello Mr. Howe,

My name is Ruben Soliz and I work for Arizona's Medicaid program. I am writing to submit the state's **FFY 2023 NF Assessment Waiver Request**. With this request, and under the authority of section 1903(w)(3)(E) of the Social Security Act (the Act) and 42 CFR 433.68(e), the State of Arizona is requesting waiver of the broad-based and uniformity requirements for an assessment imposed on Nursing Facilities.

Please find the following documents attached to this message:

1. Waiver Request Letter (PDF)
2. Waiver Illustration (Excel File)

Arizona respectfully requests an effective date of October 1, 2022 for this waiver.

Please let me know if there are any questions or comments with regard to this request.

Thank You,

Ruben

Ruben Soliz, MPH (he/him)
Federal Relations and Health Policy Advisor
Arizona Health Care Cost Containment System

Phone: 602-417-4355

Website: www.azahcccs.gov

[Facebook](#) [Instagram](#) [Twitter](#) [LinkedIn](#) [YouTube](#)

Click [here](#) to learn about AHCCCS's Medicaid and CHIP State Plans.

NOTICE: This e-mail and any attachments to it may contain information that is PRIVILEGED and CONFIDENTIAL under State and Federal law and is intended only for the use of the specific individual(s) to whom it is addressed. This information may only be used or disclosed in accordance with law, and you may be subject to penalties under law for improper use or further disclosure of the information in this e-mail and its attachments. If you have received this e-mail in error, please immediately notify the person named above by reply e-mail, and then delete the one you received

NOTICE: This e-mail and any attachments to it may contain information that is PRIVILEGED and CONFIDENTIAL under State and Federal law and is intended only for the use of the specific individual(s) to whom it is addressed. This information may only be used or disclosed in accordance with law, and you may be subject to penalties under law for improper use or further disclosure of the information in this e-mail and its attachments. If you have received this e-mail in error, please immediately notify the person named above by reply e-mail, and then delete the one you received

NOTICE: This e-mail and any attachments to it may contain information that is PRIVILEGED and CONFIDENTIAL under State and Federal law and is intended only for the use of the specific individual(s) to whom it is addressed. This information may only be used or disclosed in accordance with law, and you may be subject to penalties under law for improper use or further disclosure of the information in this e-mail and its attachments. If you have received this e-mail in error, please immediately notify the person named above by reply e-mail, and then delete the one you received

NOTICE: This e-mail and any attachments to it may contain information that is PRIVILEGED and CONFIDENTIAL under State and Federal law and is intended only for the use of the specific individual(s) to whom it is addressed. This information may only be used or disclosed in accordance with law, and you may be subject to penalties under law for improper use or further disclosure of the information in this e-mail and its attachments. If you have received this e-mail in error, please immediately notify the person named above by reply e-mail, and then delete the one you received

NOTICE: This e-mail and any attachments to it may contain information that is PRIVILEGED and CONFIDENTIAL under State and Federal law and is intended only for the use of the specific individual(s) to whom it is addressed. This information may only be used or disclosed in accordance with law, and you may be subject to penalties under law for improper use or further disclosure of the information in this e-mail and its attachments. If you have received this e-mail in error, please immediately notify the person named above by reply e-mail, and then delete the one you received

NOTICE: This e-mail and any attachments to it may contain information that is PRIVILEGED and CONFIDENTIAL under State and Federal law and is intended only for the use of the specific individual(s) to whom it is addressed. This information may only be used or disclosed in accordance with law, and you may be subject to penalties under law for improper use or further disclosure of the information in this e-mail and its attachments. If you have received this e-mail in error, please immediately notify the person named above by reply e-mail, and then delete the one you received

Message

From: Gavens, Jay (CMS/CMCS) [REDACTED] b(6)
Sent: 3/9/2023 4:18:20 PM [REDACTED] b(6)
To: Ferguson, Dorothy (CMS/CMCS) [REDACTED] b(6)
Boston, Beverly
Holligan, Ricardo
Endelman (he/him),
Fan, Kristin
Howe, Rory (CMS/CMCS)
Arnold, Charlie
Clark, Jennifer
Goldstein, Stuart
Cuno, Richard
Curry, Celestine
Kimble, Davida
Silanskis, Jeremy
Adams, lia (CMS/CMCS)
Staton, Sidney

CC:

Subject: RE: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Hi Beverly – confirming the last item (see in blue highlight below)

From: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 3:30 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Added below OIG hopes to issue the draft report to the state in June 2023 on Smith County.

Thanks,
Dorothy Ferguson, 214-767-6385
Director
Division of Financial Operations West, FMG, CMCS
Centers for Medicare & Medicaid Services (CMS)

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 1:54 PM
To: Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Hello,

Please see below with highlights where additional information or confirmation is needed. Also, thanks Kristin for responding on the CIB reactive

➔ CIB Reactive Statement w/OL Comments. Also, I am attaching the updated MO CMS-64 review timeline...didn't we prepare a FL FMR timeline, I could not locate it and I have to step out. Lia can you send to me?

OCD Qs on FL, MO, TX taxes related actions

1. Have we issued to Florida any other FMRs , on any other subjects, since January 2021? Or is this their first FMR since that time?

Answer: Yes, on January 1/18/2022 FMG held an Entrance conference with Florida state Medicaid to conduct a review on two (2) of nine the state direct payment preprints. The field work was conducted between January 2022 and November 2022. The FMR is still ongoing as the draft report is still being prepared and not issued to the state.

1. Did we also start an FMR with TX and MO on this same issue? Or is the OIG looking into TX?

Answer: On April 14, 2022, the OIG held an Entrance conference with Texas state Medicaid to conduct an audit of the state's LPPF arrangement funded by a tax (DFO-W do you know the status of the TX LPPF OIG audit?) OIG hopes to issue the draft report to the state in June 2023 on Smith County . Additionally, the OIG shared with FMG that their workplan for 2023 includes a planned review of "States' Use of Local Provider Participation Funds as the State Share of Medicaid Payments", however they have not yet identified the states they will review under the audit. For MO, as briefed during the 1/18/22 and 2/9/23 JC meetings, FMG will be conducting a focused review of Missouri's Inpatient and Outpatient Hospital Federal Reimbursement Allowance (FRA) tax that will be completed as part of the quarterly expenditure review of the Form CMS-64 submission for the quarter ended 12/31/2022. We will specifically look at the tax program to determine if a hold harmless arrangement exists.

- a. What is the status of TX and MO – either FMRs or OIGs? When did those start?

Answer: See above

2. I know the letter to FL is not public. Do final FMR reports, including this one, get posted on Medicaid.gov?

Answer: We do not post to Medicaid.gov, but they are FOIAABLE

3. Confirm the following is accurate:

- a. CMCS anticipates to issue a draft FMR report to the state by the end of calendar year 2023. The state will then have 30 days to formally respond to the draft report. Afterwards a final report will be issued that will incorporate the state's response to any findings, observations, and recommendations including CMS comments to the state's response. Correct – though many times states may ask for additional time and CMS works with the state. **(Jay can you confirm) Yes – this is correct - added some language (JG)**

If the state's response to our findings is not sufficient, CMS will consider possible disallowances of FFP. Correct

Thanks all

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Wednesday, February 15, 2023 1:13 PM

To: Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>

Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Thanks Celestine very helpful. **Ricard and Jay** on the Florida SDP FMR, can you add the month/date in 2022 when the FMR was conducted.

OCD Qs on FL, MO, TX taxes related actions

1. Have we issued to Florida any other FMRs , on any other subjects, since January 2021? Or is this their first FMR since that time? **I don't think so, but DFO/DFP can confirm. Yes, we conduct an FMR in 2022 on two of nine the state direct payment preprints. (draft report is being prepared and has not yet been issued to the state)**
2. Did we also start an FMR with TX and MO on this same issue? Or is the OIG looking into TX? **The OIG is doing a report (I forget timing) Entrance conference with the state was April 14, 2022. Additionally, OIG 2023 has not identified the states they will review but shared with FMG their workplan for 2023 includes a planned review of States' Use of Local Provider Participation Funds as the State Share of Medicaid Payments.**
 - a. What is the status of TX and MO – either FMRs or OIGs? When did those start? **For MO – I don't think there has been an FMR on this topic. The last FMR on MO hospital tax was issued 11/25/2007 and was related to what revenues should or should not be included in the hospital tax base. MO we are performing an expanded 12/31/2022 CMS-64 review that will include the FRA tax.**
3. I know the letter to FL is not public. Do final FMR reports, including this one, get posted on Medicaid.gov? **We do not post to Medicaid.gov, but they are FOIAABLE**
4. Confirm the following is accurate:
 - a. CMCS anticipates to issue a draft FMR report to the state by the end of calendar year 2023. The state will then have 30 days to formally respond to the draft report. Afterwards a final report will be issued that will incorporate the state's response to any findings, observations, and recommendations including CMS comments to the state's response. **Correct – though many times states ask for additional time.**

If the state's response to our findings is not sufficient, CMS will consider possible disallowances of FFP. **Correct**

Beverly A. Boston

Senior Advisor & Assistant to the Group Director
Financial Management Group
Center for Medicaid and CHIP Services
Centers for Medicare & Medicaid Services
Beverly.Boston@CMS.HHS.Gov
410-786-4186

From: Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 12:21 PM
To: Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Added comment to Ricardo's input.

From: Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 12:14 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Please see the highlighted language in question 1.

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 11:54 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS)

<Sidney.Staton@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>

Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Looping in Sid and Ricardo on the Florida piece. I don't believe we have sent them anything yet. I will take a look at Kristin's comments.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Wednesday, February 15, 2023 11:45 AM

To: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS)

<Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Thanks Dorothy and Kristin, since the OCD Qs seem to work better outside of SP, we'll go with that. Jay can you confirm on Q1. Anyone else have responses to address the Qs ?

OCD Qs on FL, MO, TX taxes related actions

1. Have we issued to Florida any other FMRs , on any other subjects, since January 2021? Or is this their first FMR since that time? **I don't think so, but DFO/DFP can confirm. Yes, we conduct an FMR in 2022 on two of nine the state direct payment preprints. (draft report is being prepared and has not yet been issued to the state)**
2. Did we also start an FMR with TX and MO on this same issue? Or is the OIG looking into TX? **The OIG is doing a report for Texas that began in November 2021 and is expected to be completed sometime in 2023 (I forget timing) Entrance conference with the state was April 14, 2022**
 - a. What is the status of TX and MO – either FMRs or OIGs? When did those start? **For MO – I don't think there has been an FMR on this topic. The last FMR on MO hospital tax was issued 11/25/2007 and was related to what revenues should or should not be included in the hospital tax base. MO we are performing an expanded 12/31/2022 CMS-64 review that will include the FRA tax.**
3. I know the letter to FL is not public. Do final FMR reports, including this one, get posted on Medicaid.gov? **We do not post to Medicaid.gov, but they are FOIAABLE**
4. Confirm the following is accurate:

- a. CMCS anticipates to issue a draft FMR report to the state by the end of calendar year 2023. The state will then have 30 days to formally respond to the draft report. Afterwards a final report will be issued that will incorporate the state's response to any findings, observations, and recommendations including CMS comments to the state's response. **Correct – though many times states ask for additional time.**
- b. If the state's response to our findings is not sufficient, CMS will consider possible disallowances of FFP. **Correct**

Also, please review and confirm (thanks Kristin, anyone else?) where we accept the proposed changes → CIB Reactive Statement w/OL Comments

Beverly A. Boston

Senior Advisor & Assistant to the Group Director
Financial Management Group
Center for Medicaid and CHIP Services
Centers for Medicare & Medicaid Services
Beverly.Boston@CMS.HHS.Gov
410-786-4186

From: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 11:38 AM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

I added a little more below in red.

Thanks,
Dorothy Ferguson, 214-767-6385
Director
Division of Financial Operations West, FMG, CMCS
Centers for Medicare & Medicaid Services (CMS)

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 10:21 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida

(CMS/CMCS) <Davida.Kimble@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

I didn't add anything to the sharepoint site – but some proposed responses to the OCD questions are in bold below.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Wednesday, February 15, 2023 11:03 AM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS)

<Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Good morning,

Please see below actions. We did receive OL edits to the CIB reactive (attached and in the SP link) and the OCD has follow-up Qs on taxes actions for FL,MO and TX. I did make the OCD aware generally that FMRs are not posted publicly and reminded them that MO will be a focused CMS-64 review. Please respond by 2pm today.

(1) We received OL edits/comments on the **CIB reactive**. Please confirm where we accept the proposed changes → [CIB Reactive Statement w/OL Comments](#)

(2) The OCD (Dan/Perrie) has clarifying questions on FMG FL, MO, TX tax related actions. See below and in the SP link here for collaboration → [OCD Qs on FMG - FL MO TX Taxes Related Actions](#)

OCD Qs on FL, MO, TX taxes related actions (please provide responses in SP link above)

1. Have we issued to Florida any other FMRs , on any other subjects, since January 2021? Or is this their first FMR since that time? **I don't think so, but DFO/DFP can confirm**
2. Did we also start an FMR with TX and MO on this same issue? Or is the OIG looking into TX? **The OIG is doing a report (I forget timing) Entrance conference with the state was April 14, 2022**
 - a. What is the status of TX and MO – either FMRs or OIGs? When did those start? **For MO – I don't think there has been an FMR on this topic. The last FMR on MO hospital tax was issued 11/25/2007 and was related to what revenues should or should not be included in the hospital tax base. MO we are performing an expanded 12/31/2022 CMS-64 review that will include the FRA tax.**
3. I know the letter to FL is not public. Do final FMR reports, including this one, get posted on Medicaid.gov? **We do not post to Medicaid.gov, but they are FOIAABLE**
4. Confirm the following is accurate:
 - a. CMCS anticipates to issue a draft FMR report to the state by the end of calendar year 2023. The state will then have 30 days to formally respond to the draft report. Afterwards a final report will be issued that will incorporate the state's response to any findings, observations, and recommendations including CMS comments to the state's response. **Correct – though many times states ask for additional time.**
 - b. If the state's response to our findings is not sufficient, CMS will consider possible disallowances of FFP. **Correct**

Thank you

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, February 14, 2023 4:46 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Subject: RE: DUE COB TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Hi Beverly,

Please see attached some suggested minor edits to the CIB per a conversation with Dan this afternoon. Please let me know how you'd like to handle given where we are in the process.

Thanks,
Rory

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, February 14, 2023 4:36 PM
To: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: DUE COB TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Thanks Dorothy!

Beverly

From: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>
Sent: Tuesday, February 14, 2023 4:27 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia

(CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: DUE COB TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

The only edit I had is the quarterly report for MO is 12/31/2022 not 12/21/2022. I changed highlighted in yellow red font.

Thanks,
Dorothy Ferguson, 214-767-6385
Director
Division of Financial Operations West, FMG, CMCS
Centers for Medicare & Medicaid Services (CMS)

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Tuesday, February 14, 2023 3:10 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: DUE COB TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Beverly,

I think adding [redacted] b(5) I think it [redacted] b(5)
[redacted] b(5) think [redacted] b(5)
[redacted] b(5)
[redacted] b(5) Florida, like Texas, stated that they did not plan to request the attestations because they did not believe that we or they had the authority to ask for them [redacted] b(5)
[redacted] b(5)

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Tuesday, February 14, 2023 3:20 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: DUE COB TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Hello team,

Hopefully this will be quick and I can hear back by COB today.

(1) First We are gearing up to rollout the Taxes CIB on Friday and need to make sure we're aligned on actions.

Please let me know if there are any final ***tweaks*** to the final CIB here → [Final Taxes CIB](#)

(2) Please review the FMR Reactive Statement and let me know if there are edits:

On Wednesday, February 22, the Florida Deputy Secretary for Medicaid Tom Wallace will receive a letter notifying the state of the engagement by CMCS of a Financial Management Review (FMR) of Florida's managed care state directed payments (SDPs) funded by its health-related tax. The state was previously made aware of this coming FMR in a companion letter issued as part of the SDP approval in September 2022. The FMR will review the state's operation of and supervision over its Local Provider Participation Fund (LPPF) health care-related tax program as a source of Florida's non-federal share

b(5)

b(5)

(3) ROLL-OUT – The CIB will be released on Friday by 3pm, **Rory** please confirm what time you will be contacting the FL and MO SMDs

- Friday 2/17 – **Rory Action: prior to Taxes CIB being released, FMG will contact Florida SMD regarding engaging on a Financial Management Review (FMR)** of Florida's managed care state directed payments (SDPs) funded by their health related tax. We did make the state aware in a companion letter issued as part of SDP approval in 2022.
- Friday 2/17 – **Rory Action: prior to Taxes CIB being released, FMG will contact the Missouri SMD regarding a focused CMS-64** review of the state's inpatient/outpatient Federal Reimbursement Allowance (FRA) hospital tax and will review expenditures for quarter ended 12/31/2022 .
- Friday 2/17 - **CIB RELEASED @3pm**

(4) State Follow-Up Actions Post Issuance of the Taxes CIB (Week of 2/20): DFOs/Jay please note the Weds 2/22 date to release the FMR engagement letter and MO questions

- On Weds 2/22 FMG CMS will issue the FL FMR engagement letter to the state
- On Weds 2/22 FMG will issue a question-set to the state in advance of the focused CMS-64 review regarding any pooling/redistribution of funds issues.

Please respond by COB today with any minor tweaks to the final SMD and Reactive Statement. Rory, please let me know what time you plan to make calls on Friday.

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 8, 2023 3:34 PM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: Release FRI 2/17: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hello,

I want to make you aware that the release of the taxes CIB has been moved to Friday 2/17. Rory will connect with the FL SMD regarding the FMR on the following Weds 2/22? Rory is that your understanding?

I will keep everyone posted on any changes.

Thanks

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Friday, February 3, 2023 1:10 PM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: OMB PASSBACK DUE COB MON 2/6: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

FYI, See attached Jess Schubel, White House cleared without comment.

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Friday, February 3, 2023 1:00 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia

(CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: OMB PASSBACK DUE COB MON 2/6: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

I was wondering about that one as well. I don't think it would be appropriate to add a managed care pre-print reference here. But there might be something in section 438 of the regs.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Friday, February 3, 2023 12:52 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: OMB PASSBACK DUE COB MON 2/6: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thanks Johnathan. The citations are around documentation collection correct? It appears OL is flagging whether there is a citation around 438.6 (c) managed care pre-print collection. Can someone share the draft CIB with John Giles and Laura Snyder in DEHPG to confirm? If we can hear back by COB Mon that would help to keep us on track with the 2/10 release date.

Thank you!

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Friday, February 3, 2023 12:09 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: OMB PASSBACK DUE COB MON 2/6: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Beverly,

Most of the edits should be easy and we can do today. The only one I don't know about is the request for a reference to the "managed care" regulations as it relates to the authority of CMS to request documentation as I am not as familiar with the managed care regs. We can do everything else quickly.

Best,

Jonathan

Jonathan Endelman, PhD

Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Friday, February 3, 2023 11:58 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: OMB PASSBACK DUE COB MON 2/6: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Good afternoon team,

Please see attached, OMB just provided the passback on the Tax CIB. VERY, minor edits. I believe we can turn this around by COB Mon? Please confirm. We are still aiming for Friday 2/10 release.

Thanks you

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, January 25, 2023 1:07 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: Taxes CIB w/ EOP Due Fri 2/3 For FRI 2/10 Release : OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hello,

See below status. Good news... Rachel/OS cleared the CIB without comment. It has been **advanced to EOP with comments/edits due on Friday 2/3 (not sure if we will be requested to do a call, but will keep you posted)**.

Health Care-Related Taxes CIB

- 1/19 – Send to IOS (Rachel) for review
- 1/24 COB – Rachel clears

- 1/24 5pm – Send to EOP (DPC, OMB) for review
- 2/3 COB – EOP sends comments
- 2/6-2/9 – FMG revises
- **2/10 – Launch**

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Friday, January 20, 2023 12:37 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS)

<Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: CIB with OS: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hello everyone,

The release date for the CIB has moved a couple times as OC is planning for other rollouts. Please see attached, the CIB is now targeted to be **released on Friday 2/10**. It is currently under OS review with comments due on Monday; however, I am checking with Perrie on whether the below schedule will be revised given the new 2/10 release date. I will keep you posted.

- 1/19 – Send to IOS (Rachel) for Review
- 1/23 COB – Rachel sends comments
- 1/25 – FMG revises
- 1/26 9am – Send to EOP (DPC, OMB) for review
- 1/30 12pm – EOP sends comments
- 1/30 – FMG revises
- 1/31 or 2/1 – Launch (depending on comments?)

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Sent: Thursday, January 12, 2023 3:34 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: DUE WEDS 1/11: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Jonathan, I agree with your analysis below. Thanks.

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Tuesday, January 10, 2023 2:47 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: DUE WEDS 1/11: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

OL appears to be arguing that

b(5)

b(5)

They are, of course, but that is not the only motivating factor in issuing

the CIB.

b(5)

b(5)

b(5)

However, I wanted to gauge the temperature of others to see how we wanted to approach this.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Tuesday, January 10, 2023 2:12 PM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: DUE WEDS 1/11: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hello, I am adding a SP link (below) for the reactive statement with OL comments/edits (attached) to be to aligned with the updated CIB and Q/As. Will these changes impact the OA briefing paper? We normally wait until we have clearance comments before going to OA, but I understand we are on a somewhat tight timeline.

OC reconciled the comments. I did move the reconciled version of the CIB and Q/As to SharePoint (below). Please see attached with separate line edits/comments for full disclosure from OL and OGC. Please make edits in the reconciled version.

HC Related Taxes CIB

Q/As Taxes CIB

Reactive Statement - Tax CIB

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Sent: Monday, January 9, 2023 4:31 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thanks, Beverly. I think some of the line edits are visible in the CIB, but many by OL are not visible. Is there a version with the line edits visible?

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Monday, January 9, 2023 3:34 PM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hello,

Please see attached with OL and OGC comments. Can you take a look and let me know **when you'll be able to turn around clean versions**? As a reminder, next step is R2 CMS and the OCD will concurrently send it directly to Rachel in IOS, Sara Sills in OMB (Rory I did mention to Perrie that we shared and advanced copy with OMB), and Jessica Schubel in DPC to review.

Thanks

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Friday, January 6, 2023 4:29 PM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Looks good. I will circle back if there are any questions. Thank you all.

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Sent: Friday, January 6, 2023 4:08 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

My edits are in and this is good to go. Thanks, all!

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Friday, January 6, 2023 2:47 PM

To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS)

<Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thanks Kristin,

Based on your comments would the below edits work? Please others review Kristin's comments in the attached and make edits here → reactive that was drafted by OC by COB today.

b(5)

Thanks

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>

Sent: Friday, January 6, 2023 2:19 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

I made some suggestions.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Friday, January 6, 2023 1:33 PM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thanks Kristin,

Status update: OCD confirmed we are still aiming for 1/23. OCD is awaiting OGC comments (if any) on the CIB. Once the CIB clears Comms, the OCD will send it directly to Rachel in IOS, Sara Sills in OMB (Rory I did mention to Perrie that we shared and advanced copy with OMB), and Jessica Schubel in DPC to review.

In addition due COB today - Here is the reactive that was drafted by OC for the CIB. **Please let me know if you have edits to the reactive statement developed by OC.**

Thanks

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Wednesday, January 4, 2023 9:45 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thanks Beverly. I defer to others but don't think the edits are helpful for the CIB. It was carefully crafted language. I would not recommend accepting these changes.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, January 4, 2023 8:46 AM
To: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard

(CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: CIB Health Care Related Taxes and Hold Harmless Arrangements

Good morning and HNY! 🍷

Looping others. All Comms clearance comments on the CIB are due from commenters on 1/5. Please hold the attached FCHCO comments until all other comments on the CIB are received. **I will need clean and redlined comments once all comments are received.**

In addition due 12pm tomorrow 1/5 - Here is the reactive that was drafted by OC for the CIB. Please let me know if you have edits to the reactive statement developed by OC.

Thank you

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, January 3, 2023 3:57 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Cc: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: FW: FOR CLEARANCE: Internal Q&As for CIB Health Care Related Taxes and Hold Harmless Arrangements

Hi, Beverly and Lia. Would you mind making should make sure the attached track changes based on a few suggestions from Tim make it into the final version? Please let me know if you have any questions.

Thanks,
Rory

From: Howe, Rory (CMS/CMCS)
Sent: Tuesday, January 3, 2023 3:49 PM
To: Engelhardt, Tim (CMS/FCHCO) <Tim.Engelhardt@cms.hhs.gov>
Subject: RE: FOR CLEARANCE: Internal Q&As for CIB Health Care Related Taxes and Hold Harmless Arrangements

Hi Tim,

Happy New Year. I appreciate you taking the time to review and to comment. Thanks for catching the typo and for highlighting where we could be more precise to avoid misinterpretations. We'll update the draft CIB to address the comments/edit. Thanks again.

Rory

From: Engelhardt, Tim (CMS/FCHCO) <Tim.Engelhardt@cms.hhs.gov>
Sent: Tuesday, January 3, 2023 3:16 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: FW: FOR CLEARANCE: Internal Q&As for CIB Health Care Related Taxes and Hold Harmless Arrangements

Rory –

I understand the CIB was FYI-only, but I feel compelled to share with you a few things in the attached. I was only reading it to try to learn the policy, but there is a place in the CIB where a reader could easily take away the wrong message. And a typo.

Tim Engelhardt (he/him)
Medicare-Medicaid Coordination Office
Centers for Medicare & Medicaid Services
202.690.6277

INFORMATION NOT RELEASABLE TO THE PUBLIC UNLESS AUTHORIZED BY LAW: This information has not been publicly disclosed and may be privileged and confidential. It is for internal government use only and must not be disseminated, distributed, or copied to persons not authorized to receive the information. Unauthorized disclosure may result in prosecution to the full extent of the law.

From: CMS CLEARANCES <CLEARANCES@cms.hhs.gov>

Sent: Tuesday, January 3, 2023 1:35 PM

To: Worstell, Megan (CMS/OFM) <Megan.Worstell@cms.hhs.gov>; Czajkowski, John (CMS/OFM) <John.Czajkowski@cms.hhs.gov>; Plater, Morris (CMS/OFM) <Morris.Plater@cms.hhs.gov>; Stokes-Murray (He/Him), Heinz (CMS/OFM) <KHeinz.Stokes-Murray@cms.hhs.gov>; Tierney, Janet (CMS/OFM) <Janet.Tierney@cms.hhs.gov>; Kelsey, Ashley (CMS/OFM) <Ashley.Kelsey@cms.hhs.gov>; Carmichael, Wanda (CMS/OFM) <Wanda.Carmichael@cms.hhs.gov>; Bennis, Antoinette (CMS/OFM) <Antoinette.Bennis@cms.hhs.gov>; Richter (she/her), Liz (CMS/CM) <elizabeth.richter@cms.hhs.gov>; Rice, Cheri (CMS/CM) <Cheri.Rice@cms.hhs.gov>; Ahern, Robert (CMS/CM) <Robert.Ahern@cms.hhs.gov>; Mays, Beth (CMS/CM) <Beth.Mays@cms.hhs.gov>; Blackford (she/her), Carol (CMS/CM) <Carol.Blackford@cms.hhs.gov>; Pequigney, Susan (CMS/CM) <Susan.Pequigney@cms.hhs.gov>; Farran, Patti (CMS/CM) <Patti.Farran@cms.hhs.gov>; Beder, Victoria (CMS/CM) <Victoria.Beder@cms.hhs.gov>; Feaster, Simone (CMS/CM) <simone.feaster@cms.hhs.gov>; Uebersax, Julie (CMS/CM) <Julie.Uebersax@cms.hhs.gov>; Held, William (CMS/CM) <William.Held@cms.hhs.gov>; OToole, Meghan (CMS/OA) <Meghan.OToole1@cms.hhs.gov>; Labonte, Christiane (CMS/CM) <Christiane.Labonte@cms.hhs.gov>; Martin, Kristi (CMS/CM) <Kristina.Martin@cms.hhs.gov>; Turco, Molly (CMS/CM) <Molly.Turco@cms.hhs.gov>; Jacobs, Douglas (CMS/CM) <Douglas.Jacobs@cms.hhs.gov>; Hunter, Leah (CMS/CM) <Leah.Hunter@cms.hhs.gov>; CMS CPI Clearance Box <CPI_Clearance_Box@cms.hhs.gov>; Hart, Bradley (CMS/CPI); Lindstrom, Jennifer (CMS/CPI) <Jennifer.Lindstrom@cms.hhs.gov>; Mills, George (CMS/CPI) <george.mills@cms.hhs.gov>; Brentzel, Ingrid (CMS/CPI) <Ingrid.Brentzel@cms.hhs.gov>; Graham, John (CMS/CPI) <John.Graham@cms.hhs.gov>; Wilson-Coe, Tomiko (CMS/CPI) <Tomiko.Wilson-Coe@cms.hhs.gov>; Allen, Nakia (CMS/CPI) <nakia.allen-mcgee@cms.hhs.gov>; Ahmad, Namirah (CMS/CPI) <Namirah.Ahmad@cms.hhs.gov>; Barkai, Melissa (CMS/CPI) <Melissa.Barkai@cms.hhs.gov>; Coates, Nikita (CMS/CPI) <Nikita.Coates@cms.hhs.gov>; Mitchell, Dashe (CMS/CPI) <Dashe.Mitchell@cms.hhs.gov>; Tott, Karen (CMS/CPI) <Karen.Tott@cms.hhs.gov>; Stevenson, Bryant (CMS/CPI) <bryant.stevenson@cms.hhs.gov>; Oelschlaeger, Allison (CMS/OEDA) <Allison.Oelschlaeger@cms.hhs.gov>; Shatto, Andrew (CMS/OEDA) <Andrew.Shatto@cms.hhs.gov>; Hitchcock, Katherine (CMS/OEDA) <Katherine.Hitchcock@cms.hhs.gov>; Harper, Bernice (CMS/OEDA) <Bernice.Harper@cms.hhs.gov>; CMS Front Office - CCIIO Clearances <FrontOffice-CCIIOClearances@cms.hhs.gov>; Wu (he/him), Jeff (CMS/CCIIO) <Jeff.Wu@cms.hhs.gov>; Wilson, Lisa (CMS/CCIIO) <lisa.wilson@cms.hhs.gov>; Oconnor, Nancy (CMS/OPOLE) <Nancy.OConnor@cms.hhs.gov>; Rosta (she/her), Sara (CMS/CCIIO) <Sara.Rosta@cms.hhs.gov>; Arapi, Leslie (CMS/OPOLE) <Leslie.Arapi@cms.hhs.gov>; Frimpong, Janny (CMS/CCIIO) <Janny.Frimpong@cms.hhs.gov>; Brooks, Kiahana (CMS/CCIIO) <Kiahana.Brooks@cms.hhs.gov>; Cantwell, Kathleen (CMS/OSORA) <Kathleen.Cantwell@cms.hhs.gov>; Garcia, Vanessa (CMS/OSORA) <Vanessa.Garcia@cms.hhs.gov>; Jackson, Marilyn (CMS/OSORA) <Marilyn.Jackson@cms.hhs.gov>; Barnett Sherrill (She/Her), Alexis (CMS/OSORA) <Alexis.Sherrill@cms.hhs.gov>; Taylor, Isabel (CMS/OSORA) <Isabel.Taylor@cms.hhs.gov>; Palmer, Erin (CMS/OSORA) <erin.palmer@cms.hhs.gov>; Unruh, Patti (CMS/OSORA) <Patti.Unruh@cms.hhs.gov>; Khan, Farooq (CMS/OSORA) <Farooq.Khan@cms.hhs.gov>; Lafferty, Tiffany (CMS/OSORA) <Tiffany.Lafferty@cms.hhs.gov>; Parham, William (CMS/OSORA) <WILLIAM.PARHAM@cms.hhs.gov>; Jones, Martique (CMS/OSORA) <Martique.Jones@cms.hhs.gov>; Phan, Thomas (CMS/OSORA) <Thomas.Phan@cms.hhs.gov>; Edmondson-Parrott, Michele (CMS/OSORA) <michele.edmondsonparrott@cms.hhs.gov>; Miller, Ruth-Sam (CMS/OSORA) <Ruth.Miller@cms.hhs.gov>; Lilley, Edward (CMS/OSORA) <Edward.Lilley@cms.hhs.gov>; McLemore, Monica (CMS/OSORA) <Monica.McLemore@cms.hhs.gov>; Witherspoon, Tia (CMS/OSORA)

CMS003299cv1579

<Tia.Witherspoon@cms.hhs.gov>; CMS OIT Correspondence <OITCorrespondence@cms.hhs.gov>; Howden, Catherine (CMS/OC) <Catherine.Howden@cms.hhs.gov>; Tross, Jason (CMS/OC) <Jason.Tross@cms.hhs.gov>; Wagner, Rachel (CMS/OC) <Rachel.Wagner@cms.hhs.gov>; Fortin-Garcia, Carolina (CMS/OC) <Carolina.Fortin-Garcia@cms.hhs.gov>; Boykin, Jibril (CMS/OC) <Jibril.Boykin@cms.hhs.gov>; Dinges, Enrico (CMS/OC) <Eric.Dinges@cms.hhs.gov>; Joy-Bush, Keya (CMS/OC) <keya.joy-bush@cms.hhs.gov>; Martin, Patrice (CMS/OC) <Patrice.Martin@cms.hhs.gov>; Mengel, Jonathan (CMS/OC) <Jonathan.Mengel@cms.hhs.gov>; Myers, Gregory (CMS/OC) <Gregory.Myers@cms.hhs.gov>; Smith, Aaron (CMS/OC) <Aaron.Smith@cms.hhs.gov>; Sokol, Lisa (CMS/OC) <Lisa.Sokol@cms.hhs.gov>; Thorn, Raymond (CMS/OC) <Raymond.Thorn@cms.hhs.gov>; Washington, April (CMS/OC) <April.Washington@cms.hhs.gov>; Trucil, Daniel (CMS/OC) <Daniel.Trucil@cms.hhs.gov>; Ryan, Lorraine (CMS/OC) <lorraine.ryan@cms.hhs.gov>; Schinderle, Elizabeth (CMS/OC) <elizabeth.schinderle@cms.hhs.gov>; Mahoney, Christine (CMS/OC) <Christine.Mahoney@cms.hhs.gov>; Brager, Mark (CMS/OC) <Mark.Brager@cms.hhs.gov>; Clemens, Kristen (CMS/OC) <Kristen.Clemens@cms.hhs.gov>; Reeves, Alison (CMS/OC) <Alison.Reeves@cms.hhs.gov>; Walker, Chantel (CMS/OC) <Chantel.Walker@cms.hhs.gov>; Chambers, Gwendolyn (CMS/OC) <Gwendolyn.Chambers@cms.hhs.gov>; Gross, Jessica (CMS/OC) <Jessica.Gross@cms.hhs.gov>; Alexander, Bruce (CMS/OC) <Bruce.Alexander@cms.hhs.gov>; Wallace, Mary (CMS/OC) <Mary.Wallace@cms.hhs.gov>; Aldana, Karen (CMS/OC) <Karen.Aldana@cms.hhs.gov>; Bradley, Tasha (CMS/OC) <Tasha.Bradley1@cms.hhs.gov>; Toomey, Mary (CMS/OC) <Mimi.Toomey@cms.hhs.gov>; Perkins, Valerie (CMS/OC) <Valerie.Perkins@cms.hhs.gov>; Williams, Tamika (CMS/OC) <Tamika.Williams@cms.hhs.gov>; Patrick, Michele (CMS/OC) <Michele.Patrick@cms.hhs.gov>; Mazzone, Maria (CMS/OC) <Maria.Mazzone@cms.hhs.gov>; Pressley, Erin (CMS/OC) <Erin.Pressley@cms.hhs.gov>; Miner, Amy (CMS/OC) <Amy.Miner@cms.hhs.gov>; Harmatuk, Frances (CMS/OC) <Frances.Harmatuk@cms.hhs.gov>; Reilly, Megan (CMS/OC) <Megan.Reilly@cms.hhs.gov>; Gordon, Erin (CMS/OC) <Erin.Gordon@cms.hhs.gov>; Franklin, Julie (CMS/OC) <Julie.Franklin@cms.hhs.gov>; Winer, Rachel (CMS/OC) <Rachel.Winer@cms.hhs.gov>; Dinicolo, Kelly (CMS/OC) <Kelly.Dinicolo@cms.hhs.gov>; Shaham, Lauren (CMS/OC) <Lauren.Shaham1@cms.hhs.gov>; Walen, Alyssa (CMS/OC) <Alyssa.Walen@cms.hhs.gov>; Jenkins, Courtney (CMS/OC) <Courtney.Jenkins@cms.hhs.gov>; Broccolino, Michele (CMS/OC) <Michele.Broccolino@cms.hhs.gov>; Booth, Jon (CMS/OC) <Jon.Booth@cms.hhs.gov>; Hennessy, Amy (CMS/OC) <Amy.Hennessy@cms.hhs.gov>; Costello, Stefanie (CMS/OC) <Stefanie.Costello@cms.hhs.gov>; McIver, LaShawn (CMS/OMH) <LaShawn.McIver@cms.hhs.gov>; Finch, Wanda (CMS/OMH) <Wanda.Finch@cms.hhs.gov>; Gentry, Pamela (CMS/OMH) <Pamela.Gentry@cms.hhs.gov>; Peddicord-Austin, Ashley (CMS/OMH) <Ashley.Peddicord-Austin@cms.hhs.gov>; Young, Brian (CMS/OMH) <Brian.Young@cms.hhs.gov>; Fleisher, Lee (CMS/CCSQ) <Lee.Fleisher@cms.hhs.gov>; Ling, Shari (CMS/CCSQ) <Shari.Ling@cms.hhs.gov>; Schreiber, Michelle (CMS/CCSQ) <Michelle.Schreiber@cms.hhs.gov>; Iwugo, Jeneen (CMS/CCSQ) <jeneen.iwugo@cms.hhs.gov>; Spence, Ashley (CMS/CCSQ) <Ashley.Spence@cms.hhs.gov>; Jenkins, Courtney (CMS/OC) <Courtney.Jenkins@cms.hhs.gov>; Hakim, Alyson (Aly) (CMS/CMCS) <Alyson.Hakim@cms.hhs.gov>; Appleton, Paige (CMS/CCSQ) <Paige.Appleton@cms.hhs.gov>; Moody-Williams, Jean (CMS/CCSQ) <jean.moodywilliams@cms.hhs.gov>; Michael, Sean (CMS/CCSQ) <sean.michael@cms.hhs.gov>; Engelhardt, Tim (CMS/FCHCO) <Tim.Engelhardt@cms.hhs.gov>; Vitolo, Sara (CMS/FCHCO) <Sara.Vitolo@cms.hhs.gov>; Perry, Nicole (CMS/FCHCO) <Nicole.Perry@cms.hhs.gov>; Oconnor, Nancy (CMS/OPOLE) <Nancy.OConnor@cms.hhs.gov>; Hammarlund, John (CMS/OPOLE) <john.hammarlund@cms.hhs.gov>; Collura, Paul (CMS/OPOLE) <Paul.Collura@cms.hhs.gov>; Thomas, Pam (CMS/OPOLE) <Pam.Thomas@cms.hhs.gov>; Stupica-Dobbs, Kim (CMS/OPOLE) <Kimberly.Stupica-Dobbs@cms.hhs.gov>; Hannigan, John (CMS/OPOLE) <John.Hannigan@cms.hhs.gov>; Kerrigan, Maureen (CMS/OPOLE) <Maureen.Kerrigan@cms.hhs.gov>; Balch (she/her), Elissa (CMS/OPOLE) <Elissa.Balch@cms.hhs.gov>; Sutton, Erin (CMS/OPOLE) <erin.sutton2@cms.hhs.gov>; Spitalnic, Paul (CMS/OACT) <paul.spitalnic@cms.hhs.gov>; Cooper, Jill (CMS/OACT) <Jill.Cooper@cms.hhs.gov>; Croston, Diane (CMS/OACT) <Diane.Croston@cms.hhs.gov>; CMS OLClearances <OLClearances@cms.hhs.gov>; Woronoff, Arielle (CMS/OL) <Arielle.Woronoff@cms.hhs.gov>; Boulanger, Jennifer (CMS/OL) <Jennifer.Boulanger@cms.hhs.gov>; Keene, Danyail (CMS/OL) <Danyail.Keene@cms.hhs.gov>; Druckman, Jennifer (CMS/OL) <Jennifer.Druckman@cms.hhs.gov>; Oakes, Meghan (CMS/OL) <Meghan.Oakes@cms.hhs.gov>; Newlin, Manda (CMS/OL) <Manda.Newlin@cms.hhs.gov>; Stahlman, Mary Ellen (CMS/OL) <MaryEllen.Stahlman@cms.hhs.gov>; Martino, Maria (CMS/OL) <Maria.Martino@cms.hhs.gov>; Mote, Katelyn (CMS/OL) <Katelyn.Mote@cms.hhs.gov>; Khalid, Zunaira (CMS/OL) <Zunaira.Khalid@cms.hhs.gov>; Ryan, Dan (CMS/OL) <Dan.Ryan@cms.hhs.gov>; Upchurch, Talaiya (CMS/OL) <Talaiya.Upchurch@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>; Minor, Nevena (CMS/OL) <Nevena.Minor@cms.hhs.gov>; Estrada, Abuko (CMS/OL); Barry, Meg (CMS/CMCS) <meg.barry@cms.hhs.gov>; Dawson, Andrew (CMS/OL) <Andrew.Dawson@cms.hhs.gov>; Lewandowski, David (CMS/OL) <David.Lewandowski@cms.hhs.gov>; Miner, Imani

(CMS/OL) <Imani.Miner@cms.hhs.gov>; Goto, Meinan (CMS/OL) <Meinan.Goto@cms.hhs.gov>; Greene, Mary (CMS/OAGM) <Mary.Greene@cms.hhs.gov>; Brown, Michelle (CMS/OAGM) <Michelle.Brown@cms.hhs.gov>; Amburgey, Louise (CMS/OAGM) <Louise.Amburgey1@cms.hhs.gov>; Waskiewicz, Beth (CMS/OAGM) <beth.waskiewicz@cms.hhs.gov>; Tatum, Kimberly (CMS/OAGM) <Kimberly.Tatum@cms.hhs.gov>; Calabro, Alice (CMS/OAGM) <Alice.Calabro@cms.hhs.gov>; Kelly, Ryan (CMS/OAGM) <Ryan.Kelly@cms.hhs.gov>; Hazelwood, Antoinette (CMS/OAGM) <Antoinette.Hazelwood@cms.hhs.gov>; Schmitz, Stefanie (CMS/OAGM) <Stefanie.Schmitz1@cms.hhs.gov>; Lanasa, Michele (CMS/OAGM) <Michele.Lanasa@cms.hhs.gov>; Eberhart, Christina (CMS/OAGM) <Christina.Eberhart2@cms.hhs.gov>; Dionne.Brown@cms.hhs.gov; Rippey (she/her), Catherine (CMS/OHI) <Catherine.Rippey@cms.hhs.gov>; Hamilton, Andrea (CMS/OHI) <andrea.hamilton@cms.hhs.gov>; Brauer (he/him), Randy (CMS/OHI) <Randy.Brauer@cms.hhs.gov>; Slade, James (CMS/OHI) <James.Slade@cms.hhs.gov>; Hernandez (she/her), Laura (CMS/OHI) <Laura.Hernandez@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Harris, Monica (CMS/CMCS) <Monica.Harris@cms.hhs.gov>; Harshman, Sara (CMS/CMCS) <Sara.Harshman@cms.hhs.gov>; Stegmaier, Jason (CMS/CMCS) <Jason.Stegmaier@cms.hhs.gov>; Whelan, Ellen-Marie (CMS/CMCS) <EllenMarie.Whelan@cms.hhs.gov>; Miller, Courtney (CMS/CMCS) <Courtney.Miller@cms.hhs.gov>; Janu, Shanna (CMS/CMCS) <Shanna.Janu@cms.hhs.gov>; Dorsey, Jennifer (CMS/CMCS) <jennifer.dorsey@cms.hhs.gov>; Fowler (she/her), Liz (CMS/CMMI) <Liz.Fowler@cms.hhs.gov>; Tabe-Bedward, Arrah (CMS/CMMI) <arrah.tabebedward@cms.hhs.gov>; Rushton, Andrew (CMS/CMMI) <Andrew.Rushton@cms.hhs.gov>; Dziak, Kathleen (CMS/CMMI) <Kathleen.Dziak@cms.hhs.gov>; Cardin, Megan (CMS/CMMI) <Megan.Cardin@cms.hhs.gov>; OToole, Meghan (CMS/OA) <Meghan.OToole1@cms.hhs.gov>; Wells, Carrie (CMS/CMMI) <Carrie.Wells1@cms.hhs.gov>; Barberi, Jade (CMS/CMMI) <Jade.Russell@cms.hhs.gov>; Doherty, Theresa (CMS/CMMI) <Theresa.Doherty@cms.hhs.gov>; Anderson, Jessica (CMS/CMMI) <jessica.anderson@cms.hhs.gov>; McGinley, Katelynn (CMS/CMMI) <katelynn.mcginley@cms.hhs.gov>; Greene, Mary (CMS/OBRHI) <Mary.Greene1@cms.hhs.gov>; McClain, Rena (CMS/OBRHI) <Rena.McClain1@cms.hhs.gov>; Jackson, Michelle (CMS/CPI) <Michelle.Jackson@cms.hhs.gov>; Ratchford, Deneen (CMS/OAGM) <Deneen.Ratchford@cms.hhs.gov>; St. Louis, Aileah (CMS/OC) <Aileah.St.Louis@cms.hhs.gov>; Blum, Jonathan (CMS/OA) <Jonathan.Blum@cms.hhs.gov>; Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>; Harris, Will (CMS/OA) <William.Harris@cms.hhs.gov>; Boulanger, Jennifer (CMS/OL) <Jennifer.Boulanger@cms.hhs.gov>; Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>; OToole, Meghan (CMS/OA) <Meghan.OToole1@cms.hhs.gov>; Richardson (she/her), Erin (CMS/OA) <Erin.Richardson@cms.hhs.gov>; Woronoff, Arielle (CMS/OL) <Arielle.Woronoff@cms.hhs.gov>; Yao, Kristiana (CMS/OA) <Kristiana.Yao1@cms.hhs.gov>; CMS-CQISCOCMO@ees.hhs.gov; Ling, Shari (CMS/CCSQ) <Shari.Ling@cms.hhs.gov>; Wild, Richard (CMS/CCSQ) <Richard.Wild@cms.hhs.gov>; Nilasena, David (CMS/CCSQ) <David.Nilasena@cms.hhs.gov>; Wolfe, Ashby (CMS/CCSQ) <Ashby.Wolfe1@cms.hhs.gov>; Fisher, Barbara (HHS/OGC) <Barbara.Fisher@HHS.GOV>; Rainer, Melanie Fontes (OS/OCR) <Melanie.Rainer@hhs.gov>; Smalley, Elizabeth (HHS/ASPA) <Elizabeth.Smalley@hhs.gov>; Levin, Michael (HHS/ASPA) <Michael.Levin@hhs.gov>; HHSPress@hhs.gov; releases@hhs.gov

Cc: CMS CLEARANCES <CLEARANCES@cms.hhs.gov>; Dinges, Enrico (CMS/OC) <Eric.Dinges@cms.hhs.gov>

Subject: FOR CLEARANCE: Internal Q&As for CIB Health Care Related Taxes and Hold Harmless Arrangements

*****Please copy Enrico Dinges and on ALL responses pertaining to this item when replying to CMS Clearances.*****

Please see attached internal qas for review. The informational bulletin is FYI ONLY. Thank you.

Comments Due: 1:00 PM ET Thursday, January 5, 2023

All: For your review and input. Concurrent HHS/CMS review.

Title: Internal Q&As for CMCS informational bulletin on health care related taxes and hold harmless arrangements.

Agency/Office: CMCS

Subject/Description: CMS will release an informational bulletin on health care related taxes and hold harmless arrangements involving the redistribution of Medicaid payments. This informational bulletin responds in part to questions CMS has received regarding the statutory and regulatory requirements applicable to health care-related taxes, including in connection with proposals to implement or renew Medicaid managed care state directed payments (SDPs). There will be a reactive statement, listserv message, and internal questions-and-answers for this item.

COMMs Materials for Rollout: Internal Q&As

Deadline for COMMS Clearance comments: Thursday, January 5 by 1:00 PM

Requested Release date: 2/7/2023

INFORMATION NOT RELEASABLE TO THE PUBLIC UNLESS AUTHORIZED BY LAW:

This information has not been publicly disclosed and may be privileged and confidential. It is for internal government use only and must not be disseminated, distributed, or copied to persons not authorized to receive the information. Unauthorized disclosure may result in disciplinary action or prosecution to the full extent of the law.

Message

From: Endelman (he/him), Jonathan (CMS/CMCS); [redacted] b(6)
[redacted] b(6)
Sent: 3/9/2023 5:09:45 PM
To: Gavens, Jay (CMS/CMCS); [redacted] b(6)

[redacted] Ferguson, Dorothy
[redacted]; Boston, Beverly
[redacted] Holligan, Ricardo
[redacted] Fan, Kristin (CMS/CMCS)
[redacted] Howe, Rory (CMS/CMCS)
[redacted] Arnold, Charlie
[redacted] Clark, Jennifer
[redacted] Goldstein, Stuart
[redacted]; Cuno, Richard
[redacted]; Curry, Celestine
[redacted] Imble, Davida

[redacted] b(6)

CC: Maccarroll, Amber (CMS/CMCS); [redacted] b(6)

[redacted] Silanskis, Jeremy
[redacted] Adams, Lia (CMS/CMCS)
[redacted] Staton, Sidney
[redacted] Branch, Jeffrey
[redacted] Heitt, Melissa
[redacted] McClure, Deb
[redacted] Mosley, Elle
[redacted] Choonover, Matthew

[redacted] b(6)
[redacted] b(6)

Subject: RE: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

I had no idea the OIG was issuing an FMR only on one county in Texas related to the Local Provider Participation Fund (LPPF). I assume this means they don't intend to look at other counties/states?

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>
Sent: Thursday, March 9, 2023 11:18 AM
To: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Hi Beverly – confirming the last item (see in blue highlight below)

From: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 3:30 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Added below OIG hopes to issue the draft report to the state in June 2023 on Smith County.

Thanks,
Dorothy Ferguson, 214-767-6385
Director
Division of Financial Operations West, FMG, CMCS
Centers for Medicare & Medicaid Services (CMS)

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 1:54 PM

To: Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Hello,

Please see below with highlights where additional information or confirmation is needed. Also, thanks Kristin for responding on the CIB reactive

→ CIB Reactive Statement w/OL Comments. Also, I am attaching the updated MO CMS-64 review timeline...didn't we prepare a FL FMR timeline, I could not locate it and I have to step out. Lia can you send to me?

OCD Qs on FL, MO, TX taxes related actions

1. Have we issued to Florida any other FMRs , on any other subjects, since January 2021? Or is this their first FMR since that time?

Answer: Yes, on January 1/18/2022 FMG held an Entrance conference with Florida state Medicaid to conduct a review on two (2) of nine the state direct payment preprints. The field work was conducted between January 2022 and November 2022. The FMR is still ongoing as the draft report is still being prepared and not issued to the state.

1. Did we also start an FMR with TX and MO on this same issue? Or is the OIG looking into TX?

Answer: On April 14, 2022, the OIG held an Entrance conference with Texas state Medicaid to conduct an audit of the state's LPPF arrangement funded by a tax (DFO-W do you know the status of the TX LPPF OIG audit?) OIG hopes to issue the draft report to the state in June 2023 on Smith County . Additionally, the OIG shared with FMG that their workplan for 2023 includes a planned review of "States' Use of Local Provider Participation Funds as the State Share of Medicaid Payments", however they have not yet identified the states they will review under the audit. For MO, as briefed during the 1/18/22 and 2/9/23 JC meetings, FMG will be conducting a focused review of Missouri's Inpatient and Outpatient Hospital Federal Reimbursement Allowance (FRA) tax that will be completed as part of the quarterly expenditure review of the Form CMS-64 submission for the quarter ended 12/31/2022. We will specifically look at the tax program to determine if a hold harmless arrangement exists.

- a. What is the status of TX and MO – either FMRs or OIGs? When did those start?

Answer: See above

2. I know the letter to FL is not public. Do final FMR reports, including this one, get posted on Medicaid.gov?

Answer: We do not post to Medicaid.gov, but they are FOIAABLE

3. Confirm the following is accurate:

- a. CMCS anticipates to issue a draft FMR report to the state by the end of calendar year 2023. The state will then have 30 days to formally respond to the draft report. Afterwards a final report will be issued that will incorporate the state's response to any findings, observations, and recommendations including CMS comments to the state's response. Correct – though many times states may ask for additional time and CMS works with the state. **(Jay can you confirm) Yes – this is correct - added some language (JG)**

If the state's response to our findings is not sufficient, CMS will consider possible disallowances of FFP. Correct

Thanks all

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Wednesday, February 15, 2023 1:13 PM

To: Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>

Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Thanks Celestine very helpful. **Ricard and Jay** on the Florida SDP FMR, can you add the month/date in 2022 when the FMR was conducted.

OCD Qs on FL, MO, TX taxes related actions

1. Have we issued to Florida any other FMRs , on any other subjects, since January 2021? Or is this their first FMR since that time? **I don't think so, but DFO/DFP can confirm. Yes, we conduct an FMR in 2022 on two of nine the state direct payment preprints. (draft report is being prepared and has not yet been issued to the state)**
 2. Did we also start an FMR with TX and MO on this same issue? Or is the OIG looking into TX? **The OIG is doing a report (I forget timing) Entrance conference with the state was April 14, 2022. Additionally, OIG 2023 has not identified the states they will review but shared with FMG their workplan for 2023 includes a planned review of States' Use of Local Provider Participation Funds as the State Share of Medicaid Payments.**
 - a. What is the status of TX and MO – either FMRs or OIGs? When did those start? **For MO – I don't think there has been an FMR on this topic. The last FMR on MO hospital tax was issued 11/25/2007 and was related to what revenues should or should not be included in the hospital tax base. MO we are performing an expanded 12/31/2022 CMS-64 review that will include the FRA tax.**
 3. I know the letter to FL is not public. Do final FMR reports, including this one, get posted on Medicaid.gov? **We do not post to Medicaid.gov, but they are FOIAABLE**
 4. Confirm the following is accurate:
 - a. CMCS anticipates to issue a draft FMR report to the state by the end of calendar year 2023. The state will then have 30 days to formally respond to the draft report. Afterwards a final report will be issued that will incorporate the state's response to any findings, observations, and recommendations including CMS comments to the state's response. **Correct – though many times states ask for additional time.**
- If the state's response to our findings is not sufficient, CMS will consider possible disallowances of FFP. **Correct**

Beverly A. Boston

Senior Advisor & Assistant to the Group Director
Financial Management Group
Center for Medicaid and CHIP Services
Centers for Medicare & Medicaid Services
Beverly.Boston@CMS.HHS.Gov
410-786-4186

From: Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 12:21 PM
To: Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Added comment to Ricardo's input.

From: Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 12:14 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Please see the highlighted language in question 1.

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 11:54 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Staton, Sidney (CMS/CMCS) <Sidney.Staton@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Looping in Sid and Ricardo on the Florida piece. I don't believe we have sent them anything yet. I will take a look at Kristin's comments.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 11:45 AM
To: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Thanks Dorothy and Kristin, since the OCD Qs seem to work better outside of SP, we'll go with that. Jay can you confirm on Q1. Anyone else have responses to address the Qs ?

OCD Qs on FL, MO, TX taxes related actions

1. Have we issued to Florida any other FMRs , on any other subjects, since January 2021? Or is this their first FMR since that time? **I don't think so, but DFO/DFP can confirm. Yes, we conduct an FMR in 2022 on two of nine the state direct payment preprints. (draft report is being prepared and has not yet been issued to the state)**
2. Did we also start an FMR with TX and MO on this same issue? Or is the OIG looking into TX? **The OIG is doing a report for Texas that began in November 2021 and is expected to be completed sometime in 2023 (I forget timing) Entrance conference with the state was April 14, 2022**
 - a. What is the status of TX and MO – either FMRs or OIGs? When did those start? **For MO – I don't think there has been an FMR on this topic. The last FMR on MO hospital tax was issued 11/25/2007 and was related to what revenues should or should not be included in the hospital tax base. MO we are performing an expanded 12/31/2022 CMS-64 review that will include the FRA tax.**
3. I know the letter to FL is not public. Do final FMR reports, including this one, get posted on Medicaid.gov? **We do not post to Medicaid.gov, but they are FOIABLE**
4. Confirm the following is accurate:
 - a. CMCS anticipates to issue a draft FMR report to the state by the end of calendar year 2023. The state will then have 30 days to formally respond to the draft report. Afterwards a final report will be issued that will incorporate the state's response to any findings, observations, and recommendations including CMS comments to the state's response. **Correct – though many times states ask for additional time.**
 - b. If the state's response to our findings is not sufficient, CMS will consider possible disallowances of FFP. **Correct**

Also, please review and confirm (thanks Kristin, anyone else?) where we accept the proposed changes → [CIB Reactive Statement w/OL Comments](#)

Beverly A. Boston

Senior Advisor & Assistant to the Group Director
Financial Management Group
Center for Medicaid and CHIP Services
Centers for Medicare & Medicaid Services
Beverly.Boston@CMS.HHS.Gov
410-786-4186

From: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 11:38 AM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

I added a little more below in red.

Thanks,
Dorothy Ferguson, 214-767-6385
Director
Division of Financial Operations West, FMG, CMCS
Centers for Medicare & Medicaid Services (CMS)

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 10:21 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

I didn't add anything to the sharepoint site – but some proposed responses to the OCD questions are in bold below.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 11:03 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer

(CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Good morning,

Please see below actions. We did receive OL edits to the CIB reactive (attached and in the SP link) and the OCD has follow-up Qs on taxes actions for FL,MO and TX. I did make the OCD aware generally that FMRs are not posted publicly and reminded them that MO will be a focused CMS-64 review. Please respond by 2pm today.

- (1) We received OL edits/comments on the **CIB reactive**. Please confirm where we accept the proposed changes → [CIB Reactive Statement w/OL Comments](#)
- (2) The OCD (Dan/Perrie) has clarifying questions on FMG FL, MO, TX tax related actions. See below and in the SP link here for collaboration → [OCD Qs on FMG - FL MO TX Taxes Related Actions](#)

OCD Qs on FL, MO, TX taxes related actions (please provide responses in SP link above)

1. Have we issued to Florida any other FMRs , on any other subjects, since January 2021? Or is this their first FMR since that time? **I don't think so, but DFO/DFP can confirm**
2. Did we also start an FMR with TX and MO on this same issue? Or is the OIG looking into TX? **The OIG is doing a report (I forget timing) Entrance conference with the state was April 14, 2022**
 - a. What is the status of TX and MO – either FMRs or OIGs? When did those start? **For MO – I don't think there has been an FMR on this topic. The last FMR on MO hospital tax was issued 11/25/2007 and was related to what revenues should or should not be included in the hospital tax base. MO we are performing an expanded 12/31/2022 CMS-64 review that will include the FRA tax.**
3. I know the letter to FL is not public. Do final FMR reports, including this one, get posted on Medicaid.gov? **We do not post to Medicaid.gov, but they are FOIAABLE**
4. Confirm the following is accurate:
 - a. CMCS anticipates to issue a draft FMR report to the state by the end of calendar year 2023. The state will then have 30 days to formally respond to the draft report. Afterwards a final report will be issued that will incorporate the state's response to any findings, observations, and recommendations including CMS comments to the state's response. **Correct – though many times states ask for additional time.**
 - b. If the state's response to our findings is not sufficient, CMS will consider possible disallowances of FFP. **Correct**

Thank you

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Sent: Tuesday, February 14, 2023 4:46 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS)

<Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>

Subject: RE: DUE COB TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Hi Beverly,

Please see attached some suggested minor edits to the CIB per a conversation with Dan this afternoon. Please let me know how you'd like to handle given where we are in the process.

Thanks,
Rory

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Tuesday, February 14, 2023 4:36 PM

To: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS)

<Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: DUE COB TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Thanks Dorothy!

Beverly

From: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>

Sent: Tuesday, February 14, 2023 4:27 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS)

<Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: DUE COB TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

The only edit I had is the quarterly report for MO is 12/31/2022 not 12/21/2022. I changed highlighted in yellow red font.

Thanks,
Dorothy Ferguson, 214-767-6385
Director
Division of Financial Operations West, FMG, CMCS
Centers for Medicare & Medicaid Services (CMS)

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Tuesday, February 14, 2023 3:10 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: DUE COB TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Beverly,

I think adding [redacted] b(5) [redacted]. I think it [redacted] b(5)
[redacted] b(5) [redacted] I think [redacted] b(5)
[redacted] b(5) [redacted] b(5)
[redacted] b(5) Florida, like Texas, stated that they did not plan to request the attestations because they did not believe that we or they had the authority to ask for them. [redacted] b(5)
[redacted] b(5)

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, February 14, 2023 3:20 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Gavens, Jay (CMS/CMCS) <Jay.Gavens@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: DUE COB TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Hello team,

Hopefully this will be quick and I can hear back by COB today.

(1) First We are gearing up to rollout the Taxes CIB on Friday and need to make sure we're aligned on actions. Please let me know if there are any final ***tweaks*** to the final CIB here → [Final Taxes CIB](#)

(2) Please review the FMR Reactive Statement and let me know if there are edits:

On Wednesday, February 22, the Florida Deputy Secretary for Medicaid Tom Wallace will receive a letter notifying the state of the engagement by CMCS of a Financial Management Review (FMR) of Florida's managed care state directed payments (SDPs) funded by its health-related tax. The state was previously made aware of this coming FMR in a companion letter issued as part of the SDP approval in September 2022. The FMR will review the state's operation of and supervision over its Local Provider Participation Fund (LPPF) health care-related tax program as a source of Florida's non-federal share. b(5)

b(5)

(3) ROLL-OUT – The CIB will be released on Friday by 3pm, **Rory** please confirm what time you will be contacting the FL and MO SMDs

- Friday 2/17 – **Rory Action: prior to Taxes CIB being released, FMG will contact Florida SMD regarding engaging on a Financial Management Review (FMR)** of Florida's managed care state directed payments (SDPs) funded by their health related tax. We did make the state aware in a companion letter issued as part of SDP approval in 2022.
- Friday 2/17 – **Rory Action: prior to Taxes CIB being released, FMG will contact the Missouri SMD regarding a focused CMS-64 review** of the state's inpatient/outpatient Federal Reimbursement Allowance (FRA) hospital tax and will review expenditures for quarter ended 12/31/2022 .
- Friday 2/17 - **CIB RELEASED @3pm**

(4) State Follow-Up Actions Post Issuance of the Taxes CIB (Week of 2/20): DFOs/Jay please note the Weds 2/22 date to release the FMR engagement letter and MO questions

- On Weds 2/22 FMG CMS will issue the FL FMR engagement letter to the state
- On Weds 2/22 FMG will issue a question-set to the state in advance of the focused CMS-64 review regarding any pooling/redistribution of funds issues.

Please respond by COB today with any minor tweaks to the final SMD and Reactive Statement. Rory, please let me know what time you plan to make calls on Friday.

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Wednesday, February 8, 2023 3:34 PM

To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS)

<Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: Release FRI 2/17: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hello,

I want to make you aware that the release of the taxes CIB has been moved to Friday 2/17. Rory will connect with the FL SMD regarding the FMR on the following Weds 2/22? Rory is that your understanding?

I will keep everyone posted on any changes.

Thanks

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Friday, February 3, 2023 1:10 PM

To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS)

<Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: OMB PASSBACK DUE COB MON 2/6: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

FYI, See attached Jess Schubel, White House cleared without comment.

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>

Sent: Friday, February 3, 2023 1:00 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS)

<Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: OMB PASSBACK DUE COB MON 2/6: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

I was wondering about that one as well. I don't think it would be appropriate to add a managed care pre-print reference here. But there might be something in section 438 of the regs.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Friday, February 3, 2023 12:52 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS)

<Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: OMB PASSBACK DUE COB MON 2/6: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thanks Johnathan. The citations are around documentation collection correct? It appears OL is flagging whether there is a citation around 438.6 (c) managed care pre-print collection. Can someone share the draft CIB with John Giles and Laura Snyder in DEHPG to confirm? If we can hear back by COB Mon that would help to keep us on track with the 2/10 release date.

Thank you!

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Friday, February 3, 2023 12:09 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS)

<Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: OMB PASSBACK DUE COB MON 2/6: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Beverly,

Most of the edits should be easy and we can do today. The only one I don't know about is the request for a reference to the "managed care" regulations as it relates to the authority of CMS to request documentation as I am not as familiar with the managed care regs. We can do everything else quickly.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Friday, February 3, 2023 11:58 AM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS)

<Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS)

<Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: OMB PASSBACK DUE COB MON 2/6: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Good afternoon team,

Please see attached, OMB just provided the passback on the Tax CIB. VERY, minor edits. I believe we can turn this around by COB Mon? Please confirm. We are still aiming for Friday 2/10 release.

Thanks you

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Wednesday, January 25, 2023 1:07 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS)

<Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: Taxes CIB w/ EOP Due Fri 2/3 For FRI 2/10 Release : OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hello,

See below status. Good news... Rachel/OS cleared the CIB without comment. It has been **advanced to EOP with comments/edits due on Friday 2/3 (not sure if we will be requested to do a call, but will keep you posted)**.

Health Care-Related Taxes CIB

- 1/19 – Send to IOS (Rachel) for review
- 1/24 COB – Rachel clears
- 1/24 5pm – Send to EOP (DPC, OMB) for review
- 2/3 COB – EOP sends comments
- 2/6-2/9 – FMG revises
- 2/10 – Launch

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Friday, January 20, 2023 12:37 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: CIB with OS: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hello everyone,

The release date for the CIB has moved a couple times as OC is planning for other rollouts. Please see attached, the CIB is now targeted to be **released on Friday 2/10**. It is currently under OS review with comments due on Monday; however, I am checking with Perrie on whether the below schedule will be revised given the new 2/10 release date. I will keep you posted.

- 1/19 – Send to IOS (Rachel) for Review
- 1/23 COB – Rachel sends comments
- 1/25 – FMG revises
- 1/26 9am – Send to EOP (DPC, OMB) for review
- 1/30 12pm – EOP sends comments
- 1/30 – FMG revises
- 1/31 or 2/1 – Launch (depending on comments?)

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Sent: Thursday, January 12, 2023 3:34 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: DUE WEDS 1/11: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Jonathan, I agree with your analysis below. Thanks.

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Tuesday, January 10, 2023 2:47 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: DUE WEDS 1/11: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

OL appears to be arguing that

b(5)

b(5) They are, of course, but that is not the only motivating factor in issuing the CIB. b(5)

b(5)

b(5)

b(5)

However, I wanted to gauge the temperature of others to see how we wanted to approach this.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Tuesday, January 10, 2023 2:12 PM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: DUE WEDS 1/11: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hello, I am adding a SP link (below) for the reactive statement with OL comments/edits (attached) to be to aligned with the updated CIB and Q/As. Will these changes impact the OA briefing paper? We normally wait until we have clearance comments before going to OA, but I understand we are on a somewhat tight timeline.

OC reconciled the comments. I did move the reconciled version of the CIB and Q/As to SharePoint (below). Please see attached with separate line edits/comments for full disclosure from OL and OGC. Please make edits in the reconciled version.

[HC Related Taxes CIB](#)

[Q/As Taxes CIB](#)

[Reactive Statement - Tax CIB](#)

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Sent: Monday, January 9, 2023 4:31 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS)

<Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thanks, Beverly. I think some of the line edits are visible in the CIB, but many by OL are not visible. Is there a version with the line edits visible?

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Monday, January 9, 2023 3:34 PM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hello,

Please see attached with OL and OGC comments. Can you take a look and let me know **when you'll be able to turn around clean versions?** As a reminder, next step is R2 CMS and the OCD will concurrently send it directly to Rachel in IOS, Sara Sills in OMB (Rory I did mention to Perrie that we shared and advanced copy with OMB), and Jessica Schubel in DPC to review.

Thanks

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Friday, January 6, 2023 4:29 PM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Looks good. I will circle back if there are any questions. Thank you all.

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Sent: Friday, January 6, 2023 4:08 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS)

<Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

My edits are in and this is good to go. Thanks, all!

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Friday, January 6, 2023 2:47 PM

To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thanks Kristin,

Based on your comments would the below edits work? Please others review Kristin's comments in the attached and make edits here → [reactive that was drafted by OC by COB today](#).

b(5)

Thanks

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>

Sent: Friday, January 6, 2023 2:19 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

I made some suggestions.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Friday, January 6, 2023 1:33 PM

To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>;

Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thanks Kristin,

Status update: OCD confirmed we are still aiming for 1/23. OCD is awaiting OGC comments (if any) on the CIB. Once the CIB clears Comms, the OCD will send it directly to Rachel in IOS, Sara Sills in OMB (Rory I did mention to Perrie that we shared and advanced copy with OMB), and Jessica Schubel in DPC to review.

In addition due COB today - Here is the reactive that was drafted by OC for the CIB. **Please let me know if you have edits to the reactive statement developed by OC.**

Thanks

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Wednesday, January 4, 2023 9:45 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thanks Beverly. I defer to others but don't think the edits are helpful for the CIB. It was carefully crafted language. I would not recommend accepting these changes.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, January 4, 2023 8:46 AM
To: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: CIB Health Care Related Taxes and Hold Harmless Arrangements

Good morning and HNY! 🍷

Looping others. All Comms clearance comments on the CIB are due from commenters on 1/5. Please hold the attached FCHCO comments until all other comments on the CIB are received. **I will need clean and redlined comments once all comments are received.**

In addition due 12pm tomorrow 1/5 - Here is the reactive that was drafted by OC for the CIB. Please let me know if you have edits to the reactive statement developed by OC.

Thank you

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, January 3, 2023 3:57 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Cc: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: FW: FOR CLEARANCE: Internal Q&As for CIB Health Care Related Taxes and Hold Harmless Arrangements

Hi, Beverly and Lia. Would you mind making should make sure the attached track changes based on a few suggestions from Tim make it into the final version? Please let me know if you have any questions.

Thanks,
Rory

From: Howe, Rory (CMS/CMCS)
Sent: Tuesday, January 3, 2023 3:49 PM
To: Engelhardt, Tim (CMS/FCHCO) <Tim.Engelhardt@cms.hhs.gov>
Subject: RE: FOR CLEARANCE: Internal Q&As for CIB Health Care Related Taxes and Hold Harmless Arrangements

Hi Tim,

Happy New Year. I appreciate you taking the time to review and to comment. Thanks for catching the typo and for highlighting where we could be more precise to avoid misinterpretations. We'll update the draft CIB to address the comments/edit. Thanks again.

Rory

From: Engelhardt, Tim (CMS/FCHCO) <Tim.Engelhardt@cms.hhs.gov>
Sent: Tuesday, January 3, 2023 3:16 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: FW: FOR CLEARANCE: Internal Q&As for CIB Health Care Related Taxes and Hold Harmless Arrangements

Rory –

I understand the CIB was FYI-only, but I feel compelled to share with you a few things in the attached. I was only reading it to try to learn the policy, but there is a place in the CIB where a reader could easily take away the wrong message. And a typo.

Tim Engelhardt (he/him)
Medicare-Medicaid Coordination Office
Centers for Medicare & Medicaid Services
202.690.6277

INFORMATION NOT RELEASABLE TO THE PUBLIC UNLESS AUTHORIZED BY LAW: This information has not been publicly disclosed and may be privileged and confidential. It is for internal government use only and must not be disseminated, distributed, or copied to persons not authorized to receive the information. Unauthorized disclosure may result in prosecution to the full extent of the law.

From: CMS CLEARANCES <CLEARANCES@cms.hhs.gov>

Sent: Tuesday, January 3, 2023 1:35 PM

To: Worstell, Megan (CMS/OFM) <Megan.Worstell@cms.hhs.gov>; Czajkowski, John (CMS/OFM) <John.Czajkowski@cms.hhs.gov>; Plater, Morris (CMS/OFM) <Morris.Plater@cms.hhs.gov>; Stokes-Murray (He/Him), Heinz (CMS/OFM) <KHeinz.Stokes-Murray@cms.hhs.gov>; Tierney, Janet (CMS/OFM) <Janet.Tierney@cms.hhs.gov>; Kelsey, Ashley (CMS/OFM) <Ashley.Kelsey@cms.hhs.gov>; Carmichael, Wanda (CMS/OFM) <Wanda.Carmichael@cms.hhs.gov>; Benns, Antoinette (CMS/OFM) <Antoinette.Benns@cms.hhs.gov>; Richter (she/her), Liz (CMS/CM) <elizabeth.richter@cms.hhs.gov>; Rice, Cheri (CMS/CM) <Cheri.Rice@cms.hhs.gov>; Ahern, Robert (CMS/CM) <Robert.Ahern@cms.hhs.gov>; Mays, Beth (CMS/CM) <Beth.Mays@cms.hhs.gov>; Blackford (she/her), Carol (CMS/CM) <Carol.Blackford@cms.hhs.gov>; Pequigney, Susan (CMS/CM) <Susan.Pequigney@cms.hhs.gov>; Farran, Patti (CMS/CM) <Patti.Farran@cms.hhs.gov>; Beder, Victoria (CMS/CM) <Victoria.Beder@cms.hhs.gov>; Feaster, Simone (CMS/CM) <simone.feaster@cms.hhs.gov>; Uebersax, Julie (CMS/CM) <Julie.Uebersax@cms.hhs.gov>; Held, William (CMS/CM) <William.Held@cms.hhs.gov>; OToole, Meghan (CMS/OA) <Meghan.OToole1@cms.hhs.gov>; Labonte, Christiane (CMS/CM) <Christiane.Labonte@cms.hhs.gov>; Martin, Kristi (CMS/CM) <Kristina.Martin@cms.hhs.gov>; Turco, Molly (CMS/CM) <Molly.Turco@cms.hhs.gov>; Jacobs, Douglas (CMS/CM) <Douglas.Jacobs@cms.hhs.gov>; Hunter, Leah (CMS/CM) <Leah.Hunter@cms.hhs.gov>; CMS CPI Clearance Box <CPI_Clearance_Box@cms.hhs.gov>; Hart, Bradley (CMS/CPI); Lindstrom, Jennifer (CMS/CPI) <Jennifer.Lindstrom@cms.hhs.gov>; Mills, George (CMS/CPI) <george.mills@cms.hhs.gov>; Brentzel, Ingrid (CMS/CPI) <Ingrid.Brentzel@cms.hhs.gov>; Graham, John (CMS/CPI) <John.Graham@cms.hhs.gov>; Wilson-Coe, Tomiko (CMS/CPI) <Tomiko.Wilson-Coe@cms.hhs.gov>; Allen, Nakia (CMS/CPI) <nakia.allen-mcgee@cms.hhs.gov>; Ahmad, Namirah (CMS/CPI) <Namirah.Ahmad@cms.hhs.gov>; Barkai, Melissa (CMS/CPI) <Melissa.Barkai@cms.hhs.gov>; Coates, Nikita (CMS/CPI) <Nikita.Coates@cms.hhs.gov>; Mitchell, Dashe (CMS/CPI) <Dashe.Mitchell@cms.hhs.gov>; Tott, Karen (CMS/CPI) <Karen.Tott@cms.hhs.gov>; Stevenson, Bryant (CMS/CPI) <bryant.stevenson@cms.hhs.gov>; Oelschlaeger, Allison (CMS/OEDA) <Allison.Oelschlaeger@cms.hhs.gov>; Shatto, Andrew (CMS/OEDA) <Andrew.Shatto@cms.hhs.gov>; Hitchcock, Katherine (CMS/OEDA) <Katherine.Hitchcock@cms.hhs.gov>; Harper, Bernice (CMS/OEDA) <Bernice.Harper@cms.hhs.gov>; CMS Front Office - CCIIO Clearances <FrontOffice-CCIIOClearances@cms.hhs.gov>; Wu (he/him), Jeff (CMS/CCIIO) <Jeff.Wu@cms.hhs.gov>; Wilson, Lisa (CMS/CCIIO) <lisa.wilson@cms.hhs.gov>; Oconnor, Nancy (CMS/OPOLE) <Nancy.OConnor@cms.hhs.gov>; Rosta (she/her), Sara (CMS/CCIIO) <Sara.Rosta@cms.hhs.gov>; Arapi, Leslie (CMS/OPOLE) <Leslie.Arapi@cms.hhs.gov>; Frimpong, Janny (CMS/CCIIO) <Janny.Frimpong@cms.hhs.gov>; Brooks, Kiahana (CMS/CCIIO) <Kiahana.Brooks@cms.hhs.gov>; Cantwell, Kathleen (CMS/OSORA) <Kathleen.Cantwell@cms.hhs.gov>; Garcia, Vanessa (CMS/OSORA) <Vanessa.Garcia@cms.hhs.gov>; Jackson, Marilyn (CMS/OSORA) <Marilyn.Jackson@cms.hhs.gov>; Barnett Sherrill (She/Her), Alexis (CMS/OSORA) <Alexis.Sherrill@cms.hhs.gov>; Taylor, Isabel (CMS/OSORA) <Isabel.Taylor@cms.hhs.gov>; Palmer, Erin (CMS/OSORA) <erin.palmer@cms.hhs.gov>; Unruh, Patti (CMS/OSORA) <Patti.Unruh@cms.hhs.gov>; Khan, Farooq (CMS/OSORA) <Farooq.Khan@cms.hhs.gov>; Lafferty, Tiffany (CMS/OSORA) <Tiffany.Lafferty@cms.hhs.gov>; Parham, William (CMS/OSORA) <WILLIAM.PARHAM@cms.hhs.gov>; Jones, Martique (CMS/OSORA) <Martique.Jones@cms.hhs.gov>; Phan, Thomas (CMS/OSORA) <Thomas.Phan@cms.hhs.gov>; Edmondson-Parrott, Michele (CMS/OSORA) <michele.edmondsonparrott@cms.hhs.gov>; Miller, Ruth-Sam (CMS/OSORA) <Ruth.Miller@cms.hhs.gov>; Lilley, Edward (CMS/OSORA) <Edward.Lilley@cms.hhs.gov>; McLemore, Monica (CMS/OSORA) <Monica.McLemore@cms.hhs.gov>; Witherspoon, Tia (CMS/OSORA) <Tia.Witherspoon@cms.hhs.gov>; CMS OIT Correspondence <OITCorrespondence@cms.hhs.gov>; Howden, Catherine (CMS/OC) <Catherine.Howden@cms.hhs.gov>; Tross, Jason (CMS/OC) <Jason.Tross@cms.hhs.gov>; Wagner, Rachel (CMS/OC) <Rachel.Wagner@cms.hhs.gov>; Fortin-Garcia, Carolina (CMS/OC) <Carolina.Fortin-Garcia@cms.hhs.gov>; Boykin, Jibril (CMS/OC) <Jibril.Boykin@cms.hhs.gov>; Dinges, Enrico (CMS/OC) <Eric.Dinges@cms.hhs.gov>; Joy-Bush, Keya (CMS/OC) <keya.joy-bush@cms.hhs.gov>; Martin, Patrice (CMS/OC) <Patrice.Martin@cms.hhs.gov>; Mengel, Jonathan (CMS/OC) <Jonathan.Mengel@cms.hhs.gov>; Myers, Gregory (CMS/OC) <Gregory.Myers@cms.hhs.gov>; Smith, Aaron (CMS/OC) <Aaron.Smith@cms.hhs.gov>; Sokol, Lisa (CMS/OC) <Lisa.Sokol@cms.hhs.gov>; Thorn, Raymond (CMS/OC) <Raymond.Thorn@cms.hhs.gov>; Washington, April (CMS/OC) <April.Washington@cms.hhs.gov>; Trucil, Daniel (CMS/OC) <Daniel.Trucil@cms.hhs.gov>; Ryan, Lorraine (CMS/OC) <lorraine.ryan@cms.hhs.gov>; Schinderle, Elizabeth (CMS/OC) <elizabeth.schinderle@cms.hhs.gov>; Mahoney, Christine (CMS/OC) <Christine.Mahoney@cms.hhs.gov>; Brager, Mark (CMS/OC) <Mark.Brager@cms.hhs.gov>; Clemens, Kristen (CMS/OC) <Kristen.Clemens@cms.hhs.gov>; Reeves, Alison (CMS/OC) <Alison.Reeves@cms.hhs.gov>; Walker, Chantel (CMS/OC) <Chantel.Walker@cms.hhs.gov>; Chambers, Gwendolyn (CMS/OC) <Gwendolyn.Chambers@cms.hhs.gov>; Gross,

Jessica (CMS/OC) <Jessica.Gross@cms.hhs.gov>; Alexander, Bruce (CMS/OC) <Bruce.Alexander@cms.hhs.gov>; Wallace, Mary (CMS/OC) <Mary.Wallace@cms.hhs.gov>; Aldana, Karen (CMS/OC) <Karen.Aldana@cms.hhs.gov>; Bradley, Tasha (CMS/OC) <Tasha.Bradley1@cms.hhs.gov>; Toomey, Mary (CMS/OC) <Mimi.Toomey@cms.hhs.gov>; Perkins, Valerie (CMS/OC) <Valerie.Perkins@cms.hhs.gov>; Williams, Tamika (CMS/OC) <Tamika.Williams@cms.hhs.gov>; Patrick, Michele (CMS/OC) <Michele.Patrick@cms.hhs.gov>; Mazzone, Maria (CMS/OC) <Maria.Mazzone@cms.hhs.gov>; Pressley, Erin (CMS/OC) <Erin.Pressley@cms.hhs.gov>; Miner, Amy (CMS/OC) <Amy.Minor@cms.hhs.gov>; Harmatuk, Frances (CMS/OC) <Frances.Harmatuk@cms.hhs.gov>; Reilly, Megan (CMS/OC) <Megan.Reilly@cms.hhs.gov>; Gordon, Erin (CMS/OC) <Erin.Gordon@cms.hhs.gov>; Franklin, Julie (CMS/OC) <Julie.Franklin@cms.hhs.gov>; Winer, Rachel (CMS/OC) <Rachel.Winer@cms.hhs.gov>; Dinicolo, Kelly (CMS/OC) <Kelly.Dinicolo@cms.hhs.gov>; Shaham, Lauren (CMS/OC) <Lauren.Shaham1@cms.hhs.gov>; Walen, Alyssa (CMS/OC) <Alyssa.Walen@cms.hhs.gov>; Jenkins, Courtney (CMS/OC) <Courtney.Jenkins@cms.hhs.gov>; Broccolino, Michele (CMS/OC) <Michele.Broccolino@cms.hhs.gov>; Booth, Jon (CMS/OC) <Jon.Booth@cms.hhs.gov>; Hennessy, Amy (CMS/OC) <Amy.Hennessy@cms.hhs.gov>; Costello, Stefanie (CMS/OC) <Stefanie.Costello@cms.hhs.gov>; McIver, LaShawn (CMS/OMH) <LaShawn.McIver@cms.hhs.gov>; Finch, Wanda (CMS/OMH) <Wanda.Finch@cms.hhs.gov>; Gentry, Pamela (CMS/OMH) <Pamela.Gentry@cms.hhs.gov>; Peddicord-Austin, Ashley (CMS/OMH) <Ashley.Peddicord-Austin@cms.hhs.gov>; Young, Brian (CMS/OMH) <Brian.Young@cms.hhs.gov>; Fleisher, Lee (CMS/CCSQ) <Lee.Fleisher@cms.hhs.gov>; Ling, Shari (CMS/CCSQ) <Shari.Ling@cms.hhs.gov>; Schreiber, Michelle (CMS/CCSQ) <Michelle.Schreiber@cms.hhs.gov>; Iwugo, Jeneen (CMS/CCSQ) <jeneen.iwugo@cms.hhs.gov>; Spence, Ashley (CMS/CCSQ) <Ashley.Spence@cms.hhs.gov>; Jenkins, Courtney (CMS/OC) <Courtney.Jenkins@cms.hhs.gov>; Hakim, Alyson (Aly) (CMS/CMCS) <Alyson.Hakim@cms.hhs.gov>; Appleton, Paige (CMS/CCSQ) <Paige.Appleton@cms.hhs.gov>; Moody-Williams, Jean (CMS/CCSQ) <jean.moodywilliams@cms.hhs.gov>; Michael, Sean (CMS/CCSQ) <sean.michael@cms.hhs.gov>; Engelhardt, Tim (CMS/FCHCO) <Tim.Engelhardt@cms.hhs.gov>; Vitolo, Sara (CMS/FCHCO) <Sara.Vitolo@cms.hhs.gov>; Perry, Nicole (CMS/FCHCO) <Nicole.Perry@cms.hhs.gov>; Oconnor, Nancy (CMS/OPOLE) <Nancy.OConnor@cms.hhs.gov>; Hammarlund, John (CMS/OPOLE) <john.hammarlund@cms.hhs.gov>; Collura, Paul (CMS/OPOLE) <Paul.Collura@cms.hhs.gov>; Thomas, Pam (CMS/OPOLE) <Pam.Thomas@cms.hhs.gov>; Stupica-Dobbs, Kim (CMS/OPOLE) <Kimberly.Stupica-Dobbs@cms.hhs.gov>; Hannigan, John (CMS/OPOLE) <John.Hannigan@cms.hhs.gov>; Kerrigan, Maureen (CMS/OPOLE) <Maureen.Kerrigan@cms.hhs.gov>; Balch (she/her), Elissa (CMS/OPOLE) <Elissa.Balch@cms.hhs.gov>; Sutton, Erin (CMS/OPOLE) <erin.sutton2@cms.hhs.gov>; Spitalnic, Paul (CMS/OACT) <paul.spitalnic@cms.hhs.gov>; Cooper, Jill (CMS/OACT) <Jill.Cooper@cms.hhs.gov>; Croston, Diane (CMS/OACT) <Diane.Croston@cms.hhs.gov>; CMS OLClearances <OLClearances@cms.hhs.gov>; Woronoff, Arielle (CMS/OL) <Arielle.Woronoff@cms.hhs.gov>; Boulanger, Jennifer (CMS/OL) <Jennifer.Boulanger@cms.hhs.gov>; Keene, Danyail (CMS/OL) <Danyail.Keene@cms.hhs.gov>; Druckman, Jennifer (CMS/OL) <Jennifer.Druckman@cms.hhs.gov>; Oakes, Meghan (CMS/OL) <Meghan.Oakes@cms.hhs.gov>; Newlin, Manda (CMS/OL) <Manda.Newlin@cms.hhs.gov>; Stahlman, Mary Ellen (CMS/OL) <MaryEllen.Stahlman@cms.hhs.gov>; Martino, Maria (CMS/OL) <Maria.Martino@cms.hhs.gov>; Mote, Katelyn (CMS/OL) <Katelyn.Mote@cms.hhs.gov>; Khalid, Zunaira (CMS/OL) <Zunaira.Khalid@cms.hhs.gov>; Ryan, Dan (CMS/OL) <Dan.Ryan@cms.hhs.gov>; Upchurch, Talaiya (CMS/OL) <Talaiya.Upchurch@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>; Minor, Nevena (CMS/OL) <Nevena.Minor@cms.hhs.gov>; Estrada, Abuko (CMS/OL); Barry, Meg (CMS/CMCS) <meg.barry@cms.hhs.gov>; Dawson, Andrew (CMS/OL) <Andrew.Dawson@cms.hhs.gov>; Lewandowski, David (CMS/OL) <David.Lewandowski@cms.hhs.gov>; Miner, Imani (CMS/OL) <Imani.Minor@cms.hhs.gov>; Goto, Meinan (CMS/OL) <Meinan.Goto@cms.hhs.gov>; Greene, Mary (CMS/OAGM) <Mary.Greene@cms.hhs.gov>; Brown, Michelle (CMS/OAGM) <Michelle.Brown@cms.hhs.gov>; Amburgey, Louise (CMS/OAGM) <Louise.Amburgey1@cms.hhs.gov>; Waskiewicz, Beth (CMS/OAGM) <beth.waskiewicz@cms.hhs.gov>; Tatum, Kimberly (CMS/OAGM) <Kimberly.Tatum@cms.hhs.gov>; Calabro, Alice (CMS/OAGM) <Alice.Calabro@cms.hhs.gov>; Kelly, Ryan (CMS/OAGM) <Ryan.Kelly@cms.hhs.gov>; Hazelwood, Antoinette (CMS/OAGM) <Antoinette.Hazelwood@cms.hhs.gov>; Schmitz, Stefanie (CMS/OAGM) <Stefanie.Schmitz1@cms.hhs.gov>; Lanasa, Michele (CMS/OAGM) <Michele.Lanasa@cms.hhs.gov>; Eberhart, Christina (CMS/OAGM) <Christina.Eberhart2@cms.hhs.gov>; Dionne.Brown@cms.hhs.gov; Rippey (she/her), Catherine (CMS/OHI) <Catherine.Rippey@cms.hhs.gov>; Hamilton, Andrea (CMS/OHI) <andrea.hamilton@cms.hhs.gov>; Brauer (he/him), Randy (CMS/OHI) <Randy.Brauer@cms.hhs.gov>; Slade, James (CMS/OHI) <James.Slade@cms.hhs.gov>; Hernandez (she/her), Laura (CMS/OHI) <Laura.Hernandez@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Harris, Monica (CMS/CMCS) <Monica.Harris@cms.hhs.gov>; Harshman, Sara (CMS/CMCS) <Sara.Harshman@cms.hhs.gov>; Stegmaier, Jason (CMS/CMCS) <Jason.Stegmaier@cms.hhs.gov>; Whelan, Ellen-Marie

(CMS/CMCS) <EllenMarie.Whelan@cms.hhs.gov>; Miller, Courtney (CMS/CMCS) <Courtney.Miller@cms.hhs.gov>; Janu, Shanna (CMS/CMCS) <Shanna.Janu@cms.hhs.gov>; Dorsey, Jennifer (CMS/CMCS) <jennifer.dorsey@cms.hhs.gov>; Fowler (she/her), Liz (CMS/CMMI) <Liz.Fowler@cms.hhs.gov>; Tabe-Bedward, Arrah (CMS/CMMI) <arrah.tabebedward@cms.hhs.gov>; Rushton, Andrew (CMS/CMMI) <Andrew.Rushton@cms.hhs.gov>; Dziak, Kathleen (CMS/CMMI) <Kathleen.Dziak@cms.hhs.gov>; Cardin, Megan (CMS/CMMI) <Megan.Cardin@cms.hhs.gov>; OToole, Meghan (CMS/OA) <Meghan.OToole1@cms.hhs.gov>; Wells, Carrie (CMS/CMMI) <Carrie.Wells1@cms.hhs.gov>; Barberi, Jade (CMS/CMMI) <Jade.Russell@cms.hhs.gov>; Doherty, Theresa (CMS/CMMI) <Theresa.Doherty@cms.hhs.gov>; Anderson, Jessica (CMS/CMMI) <jessica.anderson@cms.hhs.gov>; McGinley, Katelynn (CMS/CMMI) <katelynn.mcginley@cms.hhs.gov>; Greene, Mary (CMS/OBRHI) <Mary.Greene1@cms.hhs.gov>; McClain, Rena (CMS/OBRHI) <Rena.McClain1@cms.hhs.gov>; Jackson, Michelle (CMS/CPI) <Michelle.Jackson@cms.hhs.gov>; Ratchford, Deneen (CMS/OAGM) <Deneen.Ratchford@cms.hhs.gov>; St. Louis, Aileah (CMS/OC) <Aileah.St.Louis@cms.hhs.gov>; Blum, Jonathan (CMS/OA) <Jonathan.Blum@cms.hhs.gov>; Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>; Harris, Will (CMS/OA) <William.Harris@cms.hhs.gov>; Boulanger, Jennifer (CMS/OL) <Jennifer.Boulanger@cms.hhs.gov>; Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>; OToole, Meghan (CMS/OA) <Meghan.OToole1@cms.hhs.gov>; Richardson (she/her), Erin (CMS/OA) <Erin.Richardson@cms.hhs.gov>; Woronoff, Arielle (CMS/OL) <Arielle.Woronoff@cms.hhs.gov>; Yao, Kristiana (CMS/OA) <Kristiana.Yao1@cms.hhs.gov>; CMS-CQISCOMO@ees.hhs.gov; Ling, Shari (CMS/CCSQ) <Shari.Ling@cms.hhs.gov>; Wild, Richard (CMS/CCSQ) <Richard.Wild@cms.hhs.gov>; Nilasena, David (CMS/CCSQ) <David.Nilasena@cms.hhs.gov>; Wolfe, Ashby (CMS/CCSQ) <Ashby.Wolfe1@cms.hhs.gov>; Fisher, Barbara (HHS/OGC) <Barbara.Fisher@HHS.GOV>; Rainer, Melanie Fontes (OS/OCR) <Melanie.Rainer@hhs.gov>; Smalley, Elizabeth (HHS/ASPA) <Elizabeth.Smalley@hhs.gov>; Levin, Michael (HHS/ASPA) <Michael.Levin@hhs.gov>; HHSPress@hhs.gov; releases@hhs.gov

Cc: CMS CLEARANCES <CLEARANCES@cms.hhs.gov>; Dinges, Enrico (CMS/OC) <Eric.Dinges@cms.hhs.gov>

Subject: FOR CLEARANCE: Internal Q&As for CIB Health Care Related Taxes and Hold Harmless Arrangements

*****Please copy Enrico Dinges and on ALL responses pertaining to this item when replying to CMS Clearances.*****

Please see attached internal gas for review. The informational bulletin is FYI ONLY. Thank you.

Comments Due: 1:00 PM ET Thursday, January 5, 2023

All: For your review and input. Concurrent HHS/CMS review.

Title: Internal Q&As for CMCS informational bulletin on health care related taxes and hold harmless arrangements.

Agency/Office: CMCS

Subject/Description: CMS will release an informational bulletin on health care related taxes and hold harmless arrangements involving the redistribution of Medicaid payments. This informational bulletin responds in part to questions CMS has received regarding the statutory and regulatory requirements applicable to health care-related taxes, including in connection with proposals to implement or renew Medicaid managed care state directed payments (SDPs). There will be a reactive statement, listserv message, and internal questions-and-answers for this item.

COMMs Materials for Rollout: Internal Q&As

Deadline for COMMS Clearance comments: Thursday, January 5 by 1:00 PM

Requested Release date: 2/7/2023

INFORMATION NOT RELEASABLE TO THE PUBLIC UNLESS AUTHORIZED BY LAW:

This information has not been publicly disclosed and may be privileged and confidential. It is for internal government use only and must not be disseminated, distributed, or copied to persons not authorized to receive the information. Unauthorized disclosure may result in disciplinary action or prosecution to the full extent of the law.

Message

From: Endelman, Jonathan (he/him), Jonathan (CMS/CMCS) b(6)
Sent: 1/11/2023 7:01:33 PM
To: Arnold, Charlie (CMS/CMCS) b(6)
CC: adams, lia (CMS/CMCS)
; Silanskis, Jeremy
; Maccarroll, Amber
; Bonelli, Anna
; Clark, Jennifer
; Cuno, Richard
; Fan, Kristin
; Mosley, Elle (CMS/CMCS)

Subject: RE: RE: North Carolina
Attachments: Questions on North Carolina Hospital Tax Statistical Test and Hold Harmless Two.docx

Dear Rory,

In accordance with your feedback today at FMG internal clearance please see attached for the revised questions for North Carolina. Please let us know if we can send these to DMCP or if they need to be changed. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Wednesday, January 11, 2023 9:39 AM
To: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>;

adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>

Subject: RE: North Carolina

Dear Rory,

In accordance with your instructions below we have revised the hold harmless questions to be more like what we sent to Nevada. We replaced the state's name. Other than that the letter is exactly the same. Please let us know if we can send both documents to North Carolina. In addition, please let us know if we need to tweak or change the questions in any way. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>
Sent: Tuesday, January 10, 2023 4:46 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: FW: North Carolina

FYI...

Charlie Arnold
Director
CMCS/FMG/DFP
(443) 962-2499

Any opinion expressed in this email communication does not represent the opinion of the agency and will not bind or obligate CMS. CMS has relied on the facts and information presented and if any material facts have not been disclosed, any opinion/advice is without force and effect. Any advice is limited to the facts presented and is part of informal discussions of the issues raised.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, January 10, 2023 4:05 PM
To: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS)

<Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>

Subject: RE: North Carolina

Hi Charlie,

Let's discuss at the DFO/DFP Touch base tomorrow. Although we have very limited verbal information from the state expressing concerns about possible redistribution arrangements, I am concerned that the limited hold harmless questions here could be viewed as inconsistent with what we shared with Nevada (see attached – though notably, Nevada requested more detail on what assurances we would want).

Thanks,
Rory

From: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>
Sent: Tuesday, January 10, 2023 3:36 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: FW: North Carolina
Importance: High

Hi Rory,

We received the below email from DMCP. They are requesting our questions for NC by 1/20/2023 or they will recommend the approval of the SDP. We are not sure how to respond. We let them know that, because of a possible hold-harmless issue, you are reviewing the questions.

Have you had a chance to review the questions? How should we respond to DMCP?

Thanks,

Charlie Arnold
Director
CMCS/FMG/DFP
(443) 962-2499

Any opinion expressed in this email communication does not represent the opinion of the agency and will not bind or obligate CMS. CMS has relied on the facts and information presented and if any material facts have not been disclosed, any opinion/advice is without force and effect. Any advice is limited to the facts presented and is part of informal discussions of the issues raised.

From: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Sent: Tuesday, January 10, 2023 8:12 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>; Gibson, Alexis (CMS/CMCS) <alexis.gibson@cms.hhs.gov>
Subject: RE: North Carolina

Hi Jonathan and FMG colleagues,

Thank you for the update. As noted today, we are concerned with the length of time that this review has been on hold. We received the preprint in April 2022 and have been ready to approve this action pending this outstanding concern on the provider tax for several months. We appreciate that financing issues take time to resolve, but no questions have been issued to the state on the provider tax in months.

We appreciate that everyone is juggling several priorities, including NPRMs as well as ongoing work. However, we feel that continuing to hold this review in this manner is problematic.

If questions for the state cannot be finalized and sent to the state by COB 1/20, we will recommend moving ahead with approval of the SDP. We are happy to add language to the approval letter related to concerns around non-federal share if questions cannot be sent by that date; just let us know if you'd like to add the language and what language should be added.

We are happy to further discuss this if helpful.

Thanks,
Laura

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Monday, January 9, 2023 3:27 PM
To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Subject: RE: North Carolina

Lovie,

North Carolina was brought up today during a meeting with Rory. He said he would take a look at the questions and get back to us soon. We just wanted to keep you updated. Thanks.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Thursday, January 5, 2023 11:49 AM
To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS)

<Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Subject: RE: North Carolina

Thank you Lovie. We are waiting on clearance to send the questions from Rory. I hope to bring this up with Charlie today at our meeting. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Sent: Thursday, January 5, 2023 10:39 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Subject: RE: North Carolina

Hi Anna and Jonathan,

Happy New Year! As a follow up to the emails below, can you provide a status update on FMG's question sets for NC. The state has requested updates regarding the questions since November 2022. Can you assist us with getting the questions cleared? We'd like to respond to the state and send any questions from FMG this week if possible.

Thanks,
Lovie

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Thursday, December 15, 2022 12:05 PM
To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>

Subject: RE: North Carolina

Hello Lovie,

I can confirm that the issue was brought up at the meeting with Rory yesterday. Rory stated that he would take a look at the questions and loop back with us after he had a chance to review them. I will be sure to keep you updated as more information becomes available. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)

Sent: Thursday, December 15, 2022 10:58 AM

To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>

Subject: RE: North Carolina

Hello Lovie,

I believe there was supposed to be a meeting with Rory yesterday where we had planned to ask if Rory had taken a look at the questions for North Carolina. I am not sure if we brought that up at the meeting. Let me check and get back with you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov

7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Sent: Thursday, December 15, 2022 10:03 AM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: North Carolina

Hi Jonathan,

I'm following up on the email below. Have you received feedback from Rory regarding the North Carolina question sets? The state is requesting a status update.

Thank you,
Lovie

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Sent: Tuesday, December 13, 2022 1:45 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: North Carolina

Hi Jonathan and Stuart,

North Carolina is requesting a status update (please see attached email). During the FMG meeting yesterday and the email below you indicated you're waiting for feedback from Rory on the question sets. We'd like to respond to the state and send any questions from FMG this week if possible. We look forward to your update on next steps.

Thanks,
Lovie

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Sent: Monday, November 28, 2022 12:04 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment

<StateDirectedPayment@cms.hhs.gov>

Subject: RE: North Carolina

Hi Jonathan—Great! Thanks for the update.

Lovie

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Monday, November 28, 2022 11:50 AM

To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>

Subject: RE: North Carolina

Lovie,

Yes. We have questions about the tax waiver submission itself as well as about our hold harmless concerns. Similar to how we handled the Louisiana IP/OP hospital tax, our plan is to ask the questions related to the tax waiver submission itself to the state through the tax waiver submission process and our questions concerning possible hold harmless arrangements through the state-directed payment financing review process. On his request, we have sent both sets of questions to Rory and are waiting to hear back from him with his feedback before sending the questions to the state. Please let us know if we can be of any further assistance at this time. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Sent: Monday, November 28, 2022 10:18 AM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: North Carolina

Hi Jonathan,

Happy Monday! North Carolina is requesting a status update regarding their tax waiver submission (please see attachment). Does FMG have follow questions for the state? I'll add this topic the DMCP/FMG meeting agenda for tomorrow.

Thanks,
Lovie

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Tuesday, November 1, 2022 1:39 PM

To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Subject: FW: North Carolina

Dear all,

I started to review North Carolina's IP hospital services and OP hospital services health care-related taxes. I can already tell this one is going to require a lot of work before it gets to something approaching a tax for which we could recommend approval. It's certainly not the most straight forward or easily understandable submission we have ever received. It's been a decade since the state has come in to us with a tax waiver submission and it shows. I don't think someone has worked on this data in a long time. In general, the more recent a tax waiver approval is, the better shape it tends to be. In an ideal world, states would go in every so often to make sure the data is correct, clean things up, etc. We had a section of MFAR that had an expiration date of three years for tax waivers that I think would have partially addressed this issue. Please see attached for questions and the submission from the State. Please also see attached for the tax waiver approval from 2011. Also, it would be good to hear more detail from Rory about what he knows specifically about the pooling and redistribution mechanism that we believe may be attached to this tax and the extant hold harmless concerns. I am copying DMCP for awareness. I will also copy when we send questions to the state.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)

Sent: Friday, October 7, 2022 2:35 PM

To: cecilia.williams@dhhs.nc.gov; Betty.J.Staton@dhhs.nc.gov

Cc: Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna

(CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Subject: North Carolina

Good afternoon Ms. Staton,

My name is Jonathan Endelman and I am a member of the tax team located in the Financial Management Group (FMG) at CMS. We are responsible for reviewing all health care-related tax waivers of the broad-based and uniformity requirements. We are acknowledging receipt of the State's submission of 10/6/2022 requesting a waiver of the broad-based and uniformity requirements for its inpatient and outpatient hospital services taxes. We will be in touch in case we have any questions or concerns over the course of our review. In the future, please address all tax waivers to:

Mr. Rory Howe, Director
Financial Management Group
Center for Medicaid and CHIP Services
U.S. Department of Health & Human Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850

Thank you.

Best,

Jonathan

Message

From: Mauser, Gayle (CMS/OL) [REDACTED] b(6)
[REDACTED] b(6)
Sent: 3/10/2023 6:59:38 PM
To: Howe, Rory (CMS/CMCS) [REDACTED] b(6)
[REDACTED] b(6)
[REDACTED] Silanskis, Jeremy
[REDACTED] Maccarroll, Amber
[REDACTED] Arnold, Charlie
[REDACTED] Boston, Beverly
CC: [REDACTED] Wiley, Evelyn
Subject: RE: RE: E&C Majority Inquiry - Hold Harmless
Attachments: Hold Harmless_Florida Initial Document Request.pdf; Hold Harmless_Florida FMR Engagement Letter.pdf; Hold Harmless_Missouri CMS-64 Review.docx

Hi again FMG team,

We are following up on our prior discussion regarding the hold harmless question we received from E&C majority on what states have impermissible arrangements. Attention has been pulled away from this topic for a bit, but we expect that there will be renewed interest soon (and we've started to get some questions from a Texas member as well).

Below are draft talking points for a call with E&C majority, which include a few internal notes and a couple placeholders I am hoping you all can help fill in.

Rory, after FMG reviews these, I believe you were also going to run them by CMCS leadership. Looping Evelyn here to see if we can also hold some windows on your calendar to offer to Committee staff for this discussion – perhaps we aim for times within the next couple weeks? Committee staff haven't pinged us again yet, but we will let you know if they do.

Thanks,
Gayle

DRAFT Talking Points for E&C Majority Staff Call – Hold Harmless Guidance

- As you know, on February 17, 2023, CMS issued a Medicaid informational bulletin regarding health care-related taxes and hold harmless arrangements involving the redistribution of Medicaid payments.
- Hold harmless arrangements, as defined in the Medicaid statute, are arrangements in which the State or another unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax. The statute prohibits these arrangements.
- Recently, we have been approached by several states with questions about complying with this provision of law, and we have also learned of states that may have existing arrangements or are considering establishing them, particularly with respect to states establishing or renewing Medicaid managed care state directed payments.
- The informational bulletin reiterates the federal requirements concerning hold harmless arrangements with respect to health care-related taxes. We hope that this guidance provides additional clarity to states, and we

also encourage them to raise any questions or concerns they may have about the permissibility of health care-related taxes to CMS as early in the process as possible, to avoid any issues.

- Regarding your question about which states may have these types of arrangements, there are 3 states that CMS understands may have impermissible hold harmless arrangements, and 1 state we wanted to mention as an example of where we were able to intervene early in the process of establishing what may have been an impermissible hold harmless arrangement.
- Starting with the 3 states that may have these arrangements:
 - **Texas:**
 - Texas has in place what is known as the Local Provider Payment Fund or LPPF. Based on information obtained by CMS, including limited information provided by the state and publicly available third-party materials, the LPPF arrangements used by some localities in Texas appear to include hold harmless arrangements because the localities impose a tax and the state directly or indirectly provides for payments that guarantee to hold the taxpayers harmless for all or any portion of the tax amount. If our understanding of those LPPF arrangements is correct, they constitute hold harmless arrangements that are prohibited under the Medicaid statute and CMS regulations. [this language is pulled from the publicly available November 2021 [letter](#) to the State; page 5 includes additional detail regarding our understanding of the arrangement]
 - CMS has communicated these concerns to the state and, when we recently approved Texas' state directed payments, we included in our approval letter that approval of the state directed payments does not constitute any specific Medicaid financing mechanism used to support the non-federal share of the provider payment arrangement. We also clarified that we reserve the authority to enforce requirements, including by initiating separate deferrals and/or disallowances of federal financial participation.
 - As you may be aware, the HHS OIG [announced](#) in November 2021 that it is examining states' use of LPPFs as the state share of Medicaid payments, and that it expects to issue a report in FY 2023 that indicates whether the LPPFs the state agency used were permissible. [for internal awareness, the OIG work plan does not specifically name Texas]
 - **Florida:**
 - Similarly, Florida has in place an LPPF that we also understand includes hold harmless arrangements. [the attached FMR engagement letter includes additional detail regarding our understanding of the arrangement]
 - In Florida's case, we were working with the state for some time in an effort to address the concerns, but have been unable to resolve them. Like Texas, we communicated our concerns to the state and, when we recently approved Florida's state directed payments, we provided the same information as was included in the letter to Texas—that the approval does not constitute approval of the Medicaid financing mechanism, and that we reserve the authority to enforce requirements.
 - In late February, we sent a letter to Florida initiating a Financial Management Review (FMR) to examine the state Medicaid agency's compliance with federal requirements over the next several months.
 - **Missouri:**
 - Lastly, Missouri has a longstanding arrangement called the Federal Reimbursement Allowance tax program that appears to include a hold harmless arrangement, and in 2020, CMS engaged the state about its concerns. Also in 2020, the then CMCS Director sent a letter to the state describing our concerns and memorializing a conversation with state Medicaid agency leadership who at that time committed to ending the hold harmless arrangement by X timeframe.
 - While the state has not done that, state leadership has been willing to respond to CMS' questions. In late February, we also sent a letter to Missouri—but, based on our ability to obtain more information from Missouri, we have initiated a focused review of Missouri's program expenditures reported to CMS on the Form CMS-64, rather than an FMR. [the attached CMS-64 review letter includes some additional information]
- With respect to the state I mentioned where we were successful in intervening early:

- **Louisiana:**
 - In X month and year, we received information that suggested Louisiana’s legislature was developing what would have been a hold harmless arrangement as part of the financing mechanism for its state directed payment program. We engaged the state about those issues, worked with the state on alternatives that would comply with federal law, and ultimately the state withdrew the state directed payment proposal it had submitted and submitted a modified proposal.
- We are hopeful that the guidance we issued will further promote our efforts to work with states and get ahead of these issues as we did in Louisiana.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, February 21, 2023 2:37 PM
To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Gayle,

A call sounds right to me. Please also include Jeremy, Amber, and Charlie in the discussion. For awareness, tomorrow, FMG is planning to issue a letter to Florida and a question set to Missouri on this issue. Both states appear to have concerning arrangements in place and the letter/question set tomorrow are part of our work to address the arrangements. Let me know if you have any questions in the interim.

Thanks,
Rory

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Sent: Tuesday, February 21, 2023 1:57 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Subject: E&C Majority Inquiry - Hold Harmless

Hi Rory,

After Friday’s hold harmless CIB went out, we received an inquiry from House E&C majority staff asking for more information—in particular, about the language from the list serv notice indicating “recently, CMS became aware that some health care-related tax programs appear to involve agreements among providers to redistribute their Medicaid payments to hold taxpayers harmless for the cost of the tax.”

Specifically, the staff would like to know about the instances CMS has found, and the steps the agency is taking to address those agreements.

I imagine it will be most efficient to have a quick call to discuss actions to date, anticipated upcoming actions, and next steps for responding to the Hill—does that work for you? Are there others who should be included?

Thanks,
Gayle

Gayle Mauser

(she/her)

Low Income Programs Analysis Group

Office of Legislation

Centers for Medicare & Medicaid Services (CMS)

Cell Phone: **b(6)**

Message

From: Richardson, Todd [Todd.Richardson@dss.mo.gov]
Sent: 3/10/2023 9:04:57 PM
To: Powell, Eric (CMS/CMCS); [Redacted] b(6)
CC: Howe, Rory (CMS/CMCS); [Redacted] b(6); Endelman (he/him), Jonathan (CMS/CMCS); [Redacted] b(6); Kimble, Davida [Redacted] b(6); Bray, Kimberlyn [Kimberlyn.R.Bray@dss.mo.gov]; Luebbering, Patrick [Patrick.Luebbering@dss.mo.gov]; Brite, Tony [Tony.Brite@dss.mo.gov]; Vitale, Desiree [Desiree.Vitale@dss.mo.gov]
Subject: CMS - FRA QE 12/31/2022 Inquiry
Attachments: #1 - CMS Qtrly FRA Update - Scott Cover Letter with Attachment.pdf; #2 - FRA Payments to Hospitals 3(e).xlsx; #3 - MPP.pdf; #4 - Richardson Ltrr to Tsai 8-24-22.pdf; #5 - SFY 2022 B1-B2 Hospital Final.xlsx; #6 - Preliminary SFY 2023 B1-B2 Using Sched 23-3 to MHD 7-20-22.xlsx; #7 - Inpatient FMP Directed Payments_111920 pp.pdf; #8 - MSC Health Plan MOU and Amendment.pdf; FRA Tax Questions QE 12-31-22.docx

Mr. Powell,

Please see the attached response and exhibits related to your questions from February 22, 2023.

Thank you,

Todd Richardson
Director
MO HealthNet

Message

From: Mauser, Gayle (CMS/OL) [REDACTED] b(6)
[REDACTED] b(6)
Sent: 3/13/2023 4:04:35 PM
To: Howe, Rory (CMS/CMCS) [REDACTED] b(6)
[REDACTED] b(6)
[REDACTED] b(6)
CC: Silanskis, Jeremy
Maccarroll, Amber
Arnold, Charlie
Boston, Beverly
Wiley, Evelyn
Subject: RE: RE: E&C Majority Inquiry - Hold Harmless

Hi all, in addition to the follow-up we owe E&C majority staff, Rep. Al Green's (D-TX) office has inquired about the guidance and how it relates specifically to Texas. We would like to schedule a call between Rory and Rep. Green's office (it will be his Chief of Staff, but it is possible Rep. Green also joins). We'll provide draft Texas-specific talking points that build on the information provided below closer to the meeting.

In the interim, **Evelyn**, can you help us set up the following? If you can offer FMG availability, we will do our best to work around your schedules.

- 30 minutes to prep for the Al Green call, ideally in the couple of days prior to the actual briefing
- A few 30-minute holds that we can offer Rep. Green's office for the week of 3/27

Thanks!
Gayle

From: Mauser, Gayle (CMS/OL)
Sent: Friday, March 10, 2023 2:00 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi again FMG team,

We are following up on our prior discussion regarding the hold harmless question we received from E&C majority on what states have impermissible arrangements. Attention has been pulled away from this topic for a bit, but we expect that there will be renewed interest soon (and we've started to get some questions from a Texas member as well).

Below are draft talking points for a call with E&C majority, which include a few internal notes and a couple placeholders I am hoping you all can help fill in.

Rory, after FMG reviews these, I believe you were also going to run them by CMCS leadership. Looping Evelyn here to see if we can also hold some windows on your calendar to offer to Committee staff for this discussion – perhaps we aim for times within the next couple weeks? Committee staff haven't pinged us again yet, but we will let you know if they do.

Thanks,
Gayle

DRAFT Talking Points for E&C Majority Staff Call – Hold Harmless Guidance

- As you know, on February 17, 2023, CMS issued a Medicaid informational bulletin regarding health care-related taxes and hold harmless arrangements involving the redistribution of Medicaid payments.
- Hold harmless arrangements, as defined in the Medicaid statute, are arrangements in which the State or another unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax. The statute prohibits these arrangements.
- Recently, we have been approached by several states with questions about complying with this provision of law, and we have also learned of states that may have existing arrangements or are considering establishing them, particularly with respect to states establishing or renewing Medicaid managed care state directed payments.
- The informational bulletin reiterates the federal requirements concerning hold harmless arrangements with respect to health care-related taxes. We hope that this guidance provides additional clarity to states, and we also encourage them to raise any questions or concerns they may have about the permissibility of health care-related taxes to CMS as early in the process as possible, to avoid any issues.
- Regarding your question about which states may have these types of arrangements, there are 3 states that CMS understands may have impermissible hold harmless arrangements, and 1 state we wanted to mention as an example of where we were able to intervene early in the process of establishing what may have been an impermissible hold harmless arrangement.
- Starting with the 3 states that may have these arrangements:
 - **Texas:**
 - Texas has in place what is known as the Local Provider Payment Fund or LPPF. Based on information obtained by CMS, including limited information provided by the state and publicly available third-party materials, the LPPF arrangements used by some localities in Texas appear to include hold harmless arrangements because the localities impose a tax and the state directly or indirectly provides for payments that guarantee to hold the taxpayers harmless for all or any portion of the tax amount. If our understanding of those LPPF arrangements is correct, they constitute hold harmless arrangements that are prohibited under the Medicaid statute and CMS regulations. [this language is pulled from the publicly available November 2021 [letter](#) to the State; page 5 includes additional detail regarding our understanding of the arrangement]
 - CMS has communicated these concerns to the state and, when we recently approved Texas' state directed payments, we included in our approval letter that approval of the state directed payments does not constitute any specific Medicaid financing mechanism used to support the non-federal share of the provider payment arrangement. We also clarified that we reserve the authority to enforce requirements, including by initiating separate deferrals and/or disallowances of federal financial participation.
 - As you may be aware, the HHS OIG [announced](#) in November 2021 that it is examining states' use of LPPFs as the state share of Medicaid payments, and that it expects to issue a report in FY 2023 that indicates whether the LPPFs the state agency used were permissible. [for internal awareness, the OIG work plan does not specifically name Texas]
 - **Florida:**
 - Similarly, Florida has in place an LPPF that we also understand includes hold harmless arrangements. [the attached FMR engagement letter includes additional detail regarding our understanding of the arrangement]

- In Florida’s case, we were working with the state for some time in an effort to address the concerns, but have been unable to resolve them. Like Texas, we communicated our concerns to the state and, when we recently approved Florida’s state directed payments, we provided the same information as was included in the letter to Texas—that the approval does not constitute approval of the Medicaid financing mechanism, and that we reserve the authority to enforce requirements.
 - In late February, we sent a letter to Florida initiating a Financial Management Review (FMR) to examine the state Medicaid agency’s compliance with federal requirements over the next several months.
 - **Missouri:**
 - Lastly, Missouri has a longstanding arrangement called the Federal Reimbursement Allowance tax program that appears to include a hold harmless arrangement, and in 2020, CMS engaged the state about its concerns. Also in 2020, the then CMCS Director sent a letter to the state describing our concerns and memorializing a conversation with state Medicaid agency leadership who at that time committed to ending the hold harmless arrangement by X timeframe.
 - While the state has not done that, state leadership has been willing to respond to CMS’ questions. In late February, we also sent a letter to Missouri—but, based on our ability to obtain more information from Missouri, we have initiated a focused review of Missouri’s program expenditures reported to CMS on the Form CMS-64, rather than an FMR. [the attached CMS-64 review letter includes some additional information]
- With respect to the state I mentioned where we were successful in intervening early:
 - **Louisiana:**
 - In X month and year, we received information that suggested Louisiana’s legislature was developing what would have been a hold harmless arrangement as part of the financing mechanism for its state directed payment program. We engaged the state about those issues, worked with the state on alternatives that would comply with federal law, and ultimately the state withdrew the state directed payment proposal it had submitted and submitted a modified proposal.
- We are hopeful that the guidance we issued will further promote our efforts to work with states and get ahead of these issues as we did in Louisiana.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Sent: Tuesday, February 21, 2023 2:37 PM

To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>

Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Gayle,

A call sounds right to me. Please also include Jeremy, Amber, and Charlie in the discussion. For awareness, tomorrow, FMG is planning to issue a letter to Florida and a question set to Missouri on this issue. Both states appear to have concerning arrangements in place and the letter/question set tomorrow are part of our work to address the arrangements. Let me know if you have any questions in the interim.

Thanks,
Rory

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>

Sent: Tuesday, February 21, 2023 1:57 PM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>

Subject: E&C Majority Inquiry - Hold Harmless

Hi Rory,

After Friday's hold harmless CIB went out, we received an inquiry from House E&C majority staff asking for more information—in particular, about the language from the list serv notice indicating “recently, CMS became aware that some health care-related tax programs appear to involve agreements among providers to redistribute their Medicaid payments to hold taxpayers harmless for the cost of the tax.”

Specifically, the staff would like to know about the instances CMS has found, and the steps the agency is taking to address those agreements.

I imagine it will be most efficient to have a quick call to discuss actions to date, anticipated upcoming actions, and next steps for responding to the Hill—does that work for you? Are there others who should be included?

Thanks,
Gayle

Gayle Mauser

(she/her)

Low Income Programs Analysis Group

Office of Legislation

Centers for Medicare & Medicaid Services (CMS)

Cell Phone: b(6)

Message

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: 3/13/2023 6:16:14 PM
To: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
CC: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Subject: Follow-up: Re-Delegation of Authority for Tax Waiver signatures!

Attachments: Delegation of Section 1903 [42 U.S.C. 1396b](w)(3)(E)(ii).docx; Delegation of Section 1903 [42 U.S.C. 1396b](w)(3)(E)(ii).pdf; Tab A - Previous Delegation of Authority Memo--10-25-01.pdf; Tab B - Section 1903 [42 U.S.C. 1396b](w)(3)(E)(ii).pdf

b(6)

Good afternoon,

Amber I am confirming whether the OCD able to sign the tax waiver DoA?

Thanks

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, March 1, 2023 5:04 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: Re-Delegation of Authority for Tax Waiver signatures!

Hello Jonathan and DFP/DOB,

I did work with OHC to have tax waiver signatures re-delegated to the DFP Director-level for signature (Group-level delegation will continue to be reflected). Please see attached for your review before we proceed to ask the OCD to signoff on the DoA. Can you review all of the PDFs to make sure they accurately indicate the correct authority specific to tax waiver delegation? Once we confirm accuracy, **Rory, Amber, Jeremy** I think signature can be requested at an OCD TB or even offline?

Thank you

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 1, 2023 8:25 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hey Beverly. I just wanted to check to see if there was any updates that you have in terms of the delegation of signature authority for tax waivers. Please let us know if there is any way that the tax team can help. Thank you.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Wednesday, February 1, 2023 2:35 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Thanks Beverly. We appreciate it.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 2:31 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Got it and working on it. Thanks

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 2:20 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Beverly,

1903(w)(3)(E)(ii) [42 USC 1396b (w)(3)(E)(ii)] would be the pertinent section. That's the section that talks about CMS approving tax waivers. Please let me know if I could be of further assistance. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 1:47 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hi Jonathan,

See below Delegations of Authority (DoAs) that are related to taxes. We did request delegation at the Group Dir level which is why Rory is able to sign so this is not the latest. Can you confirm which DoAs would be pertinent to the tax letters that Rory signs?

87	<u>1903(w)(2)(B)</u> [42 USC 1396b(w) (2)(B)]	Determine that the State has satisfactorily established that a provider-related donation has no direct or indirect relationship to payments made, under Title XIX of the Social Security Act, to that provider, to providers furnishing the same class of items and services as the provider, or to any related entity.	Deputy Administrator & Dir/Dep Dir, CMCS	
----	---	---	--	--

88	<u>1903(w)(3)(C)(i)(IV)</u> [42 USC 1396b(w)(3)(C)(i)(IV)]	Determine that the State has satisfactorily established that any other tax has been imposed uniformly with respect to a health care related tax.	Deputy Administrator & Dir/Dep Dir, CMCS	
89	<u>1903(w)(3)(E)(i)</u> [42 USC 1396b(w)(3)(E)(i)]	Treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in a class (or all providers of such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of Section 1903(w)(3)(B) or (C) of the Social Security Act with respect to an application submitted by a State.	Deputy Administrator & Dir/Dep Dir, CMCS	
90	<u>1903(w)(3)(E)(ii)</u> [42 USC 1396b(w)(3)(E)(ii)]	Approve such application if the State satisfactorily establishes that : (1) The net impact of the tax and associated expenditures under Title XIX of the Social Security Act as proposed by the State is generally redistributive in nature, and (2) The amount of the tax is not directly correlated to payments under Title XIX of the Social Security Act for items or services with respect to which the tax is imposed with respect to an application submitted by a State requesting that a tax be treated as a broad-based health care related tax.	Deputy Administrator & Dir/Dep Dir, CMCS	
91	<u>1903(w)(4)</u> [42 USC 1396b(w)(4)]	Determine that any of the following applies: (1) The State or other unit of Government imposing the tax provides (directly or indirectly) for a payment (other than under Title XIX of the Social Security Act) to taxpayers, and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of the payment under the State plan; and (2) All or any portion of the payment under Title XIX of the Social Security Act to the taxpayer varies based only upon the amount of the total tax paid; and (C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax with respect to a broad-based health care related tax imposed with respect to a class of items or services.	Deputy Administrator & Dir/Dep Dir, CMCS	Amended per Section 403 of Public Law 109-432, 12/20/06
92	<u>1903(w)(5)(B)(ii)</u> [42 USC 1396b(w)(5)(B)(ii)]	Project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year Authority, with respect to a tax, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, that is not in effect throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	

93	1903(w)(5)(C)(i) [42 USC 1396b(w) (5)(C)(i)]	Determine the total amount of health care related taxes, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, based on only those taxes (including the tax rate or base) which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	
94	1903(w)(5)(C)(ii) [42 USC 1396b(w) (5)(C)(ii)]	Determine the amount of provider-related donations, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, based on programs in effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:36 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Thanks assisting us with this Beverly. We appreciate it.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:34 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hi Jonathan,

Thanks for this reminder to the team and also me to confirm the Delegation of Authority for tax waiver signatures. I will look into this signatory level and will circle back.

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Wednesday, February 1, 2023 11:26 AM

To: Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>

Subject: FW: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Dear team,

North Carolina inquired today regarding the status of their revised NF tax waiver. The revised North Carolina NF and the two Michigan NFs still need to be signed by Rory. Since we have implemented the double checklist check in the future, we feel confident that situations such as the NC NF will not occur in the future. As a reminder, the NC NF tax waiver that we sent to Rory originally for signature was incorrect. We then sent him a revised version, which was also incorrect. We have since sent him a third, correct version, that is waiting to be signed. The new process involves checking the tax waiver checklist twice. The first time is before we put it on FMG internal clearance. The second time is after we present at FMG internal clearance and before we send an email to Rory for signature. After we check the checklist, as a way of ensuring that we have done it, I recommend sending an email to the team each time informing them that we have completed the checklist. We have followed this process for MI's NF tax waivers. As a result, this will not happen again.

In general, we do have an issue that documents that we send to Rory for signature may not get signed expeditiously. Given the volume of work Rory has this is certainly understandable. I recommend pursuing the option of investigating signature authority procedures to see if someone else may sign documents for Rory and, if so, who. Rory himself mentioned that this would be his preference. I think we should follow up on that. In general, I think we should also convene a working group to suggest and solicit feedback regarding these types of process improvements to help things work better, which after all never is complete. We can always do things better and more efficiently.

I look forward to more discussion on these topics.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.

Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>
Sent: Wednesday, February 1, 2023 11:16 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>
Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

This message was sent securely using Zix®

Awesome! Thanks so much for the information. We will keep this mind when sending emails in the future.

Cecilia Williams
State Plan and Amendments Coordinator
NC Medicaid
Division of Health Benefits
[NC Department of Health and Human Services](http://www.ncdhhs.gov)



Vax Up OR **Mask Up**

Find a vaccine location, get questions answered and more at YourSpotYourShot.nc.gov.

Mobile: b(6)
Office: (919) 527-7105

Cecilia.Williams@dhhs.nc.gov

820 S. Boylan Ave., McBryde Building
1950 Mail Service Center
Raleigh, NC 27699-1950

[Twitter](#) | [Facebook](#) | [YouTube](#) | [LinkedIn](#)

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:15 AM
To: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>
Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>
Subject: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Thank you for checking. There was one individual who used to work with the CMS tax team but has since retired. His name is Jim Burns. He was our technical director in the Division of Financial Policy. His email address is no longer valid because he retired. He is copied on the email that you replied to. That is why you are getting the error message.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>
Sent: Wednesday, February 1, 2023 11:12 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>
Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>
Subject: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

This message was sent securely using Zix®

Good morning, Jonathan!

An update was requested in a previous email. However, I received an “undeliverable” message and wanted to resend just to make sure it was not associated with your email address. Can you provide an update on the revised approval mentioned in the subject line above.

Thanks!

Cecilia Williams
State Plan and Amendments Coordinator
NC Medicaid (Benefits and Services)

Mobile: b(6)
Office: (919) 527-7105



Vax Up OR **Mask Up**

Find a vaccine location, get questions answered and more at YourSpotYourShot.nc.gov.

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized State official. Unauthorized disclosure of juvenile, health, legally privileged, or otherwise confidential information, including confidential information relating to an ongoing State procurement effort, is prohibited by law. If you have received this email in error, please notify the sender immediately and delete all records of this email.

This message was secured by **Zix**[®].

This message was secured by **Zix**[®].

Message

From: Maccarroll, Amber (CMS/CMCS); [REDACTED] b(6)
[REDACTED] b(6)
Sent: 3/14/2023 12:09:06 PM
To: Ferguson, Dorothy (CMS/CMCS); [REDACTED] b(6)
[REDACTED] b(6)
CC: Howe, Rory (CMS/CMCS); [REDACTED] b(6)
[REDACTED] b(6)
Subject: RE: RE: CMS - FRA QE 12/31/2022 Inquiry

Thanks Dorothy – appreciate your team’s quick review.

Am looping in Rory to this thread. He still needs to review the paper and can add info to the paper when he reviews if he thinks it’s warranted.

Thanks, Amber

From: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>
Sent: Tuesday, March 14, 2023 8:06 AM
To: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: FW: CMS - FRA QE 12/31/2022 Inquiry

Amber,

Rory had asked us to do a quick scan of the state response. Below is Eric and Jonathan’s comments. Not sure if you want to include any of that in the briefing document. But basically nothing new from the state.

Thanks,
Dorothy Ferguson, 214-767-6385
Director
Division of Financial Operations West, FMG, CMCS
Centers for Medicare & Medicaid Services (CMS)

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Tuesday, March 14, 2023 6:51 AM
To: Powell, Eric (CMS/CMCS) <Eric.Powell@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>
Subject: RE: CMS - FRA QE 12/31/2022 Inquiry

Dorothy,

I concur with Eric. I don’t understand the “independent consultant” argument because the name of the State agency, “the Missouri Department of Social Services” is on every page of the document and it was posted on the agency’s website. Also, there is no name of any other consultant anywhere else in the document, which one would expect to see if it was prepared by a consultant.

The only thing I added to the OA brief was the date of the State’s response, which was March 10, 2023. I don’t have anything further.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Powell, Eric (CMS/CMCS) <Eric.Powell@cms.hhs.gov>
Sent: Tuesday, March 14, 2023 7:37 AM
To: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>
Subject: RE: CMS - FRA QE 12/31/2022 Inquiry

I see nothing glaring. Missouri answered as expected. They aren't involved in the pooling and have no documents describing how it works. They distanced themselves from the Rapid Response Review – it was prepared by independent consultant, Missouri doesn't have the source documents used to prepare it, they don't know if it is accurate or not. Their best argument is unchanged – the MPP recognizes the FRA as a permissible funding source as long as there is no redistribution in state law, regulation, or policy, and it meets the B1/B2 test after taking into account the redistribution.

Eric Powell | Centers for Medicaid and CHIP Services | FMG/DFO-West Branch B | 312.886.0791

From: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>
Sent: Monday, March 13, 2023 2:17 PM
To: Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Powell, Eric (CMS/CMCS) <Eric.Powell@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>
Subject: FW: CMS - FRA QE 12/31/2022 Inquiry
Importance: High

Rory asked for us to perform a quick scan overview and see if anything glaring shows up in any of the support the state provided for us to include in the briefing document for tomorrow. I know some were out on Friday and some out today but anything we can provide would be great. Also if we don't see anything now but do later in the week or prior to issues meeting, March 22, please provide and we can verbally update at that time.

Thanks,
Dorothy Ferguson, 214-767-6385
Director
Division of Financial Operations West, FMG, CMCS

Centers for Medicare & Medicaid Services (CMS)

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Sent: Friday, March 10, 2023 3:36 PM

To: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>

Subject: FW: CMS - FRA QE 12/31/2022 Inquiry

Importance: High

From: Richardson, Todd <Todd.Richardson@dss.mo.gov>

Sent: Friday, March 10, 2023 4:05 PM

To: Powell, Eric (CMS/CMCS) <Eric.Powell@cms.hhs.gov>

Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Kimble, Davida (CMS/CMCS) <Davida.Kimble@cms.hhs.gov>; Bray, Kimberlyn <Kimberlyn.R.Bray@dss.mo.gov>; Luebbering, Patrick <Patrick.Luebbering@dss.mo.gov>; Brite, Tony <Tony.Brite@dss.mo.gov>; Vitale, Desiree <Desiree.Vitale@dss.mo.gov>

Subject: CMS - FRA QE 12/31/2022 Inquiry

Importance: High

Mr. Powell,

Please see the attached response and exhibits related to your questions from February 22, 2023.

Thank you,

Todd Richardson
Director
MO HealthNet

Message

From: Boston, Beverly (CMS/CMCS); [redacted] b(6)
Sent: 3/13/2023 7:14:25 PM [redacted] b(6)
To: Howe, Rory (CMS/CMCS); [redacted] b(6)
CC: [redacted] b(6) Arnold, Charlie
[redacted] b(6) Maccarroll, Amber
[redacted] b(6)]; Goldstein, Stuart
[redacted] b(6)]; Fan, Kristin
[redacted] b(6) Endelman (he/him),
Jonathan (CMS/CMCS); [redacted] b(6)
Subject: RE: RE: Follow-up: Re-Delegation of Authority for Tax Waiver signatures!

No problem. DFP can bring to a TB. Whatever is decided, I will need to circle back with OHC.

Thanks

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Monday, March 13, 2023 2:49 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>
Cc: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: Follow-up: Re-Delegation of Authority for Tax Waiver signatures!

Hi Beverly and Charlie,

Thanks for pulling this together. I apologize, but I think there was a miscommunication on this issue. I mentioned that it would be helpful if someone else could sign the tax waiver letters for me, similar to how DRR signs out institutional SPAs on my behalf once they receive the verbal okay from OGD (either Jeremy or me). It seems like this proposes a formal delegation of signature authority. I'm not necessarily opposed to a formal delegation, but I think we should discuss and understand the pros/cons of delegation versus a simpler signature process. We don't need paper to discuss and should be able to cover verbally.

I apologize again for the miscommunication. I should have been clearer. Please let me know if you have any questions before we discuss.

Thanks,
Rory

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Monday, March 13, 2023 2:16 PM
To: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: Follow-up: Re-Delegation of Authority for Tax Waiver signatures!

Good afternoon,

Amber I am confirming whether the OCD able to sign the tax waiver DoA?

Thanks

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, March 1, 2023 5:04 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: Re-Delegation of Authority for Tax Waiver signatures!

Hello Jonathan and DFP/DOB,

I did work with OHC to have tax waiver signatures re-delegated to the DFP Director-level for signature (Group-level delegation will continue to be reflected). Please see attached for your review before we proceed to ask the OCD to signoff on the DoA. Can you review all of the PDFs to make sure they accurately indicate the correct authority specific to tax waiver delegation? Once we confirm accuracy, **Rory, Amber, Jeremy** I think signature can be requested at an OCD TB or even offline?

Thank you

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 1, 2023 8:25 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hey Beverly. I just wanted to check to see if there was any updates that you have in terms of the delegation of signature authority for tax waivers. Please let us know if there is any way that the tax team can help. Thank you.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Wednesday, February 1, 2023 2:35 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Thanks Beverly. We appreciate it.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 2:31 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Got it and working on it. Thanks

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 2:20 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Beverly,

1903(w)(3)(E)(ii) [42 (USC 1396b (w)(3)(E)(ii))] would be the pertinent section. That's the section that talks about CMS approving tax waivers. Please let me know if I could be of further assistance. Thank you.

Best,

Jonathan

Jonathan Endelman
 Social Science Research Analyst
 Centers for Medicare & Medicaid Services (CMS)
 Center for Medicaid and CHIP Services (CMCS)
 Financial Management Group (FMG)
 Division of Financial Policy (DFP)
 410.786.4738
jonathan.endelman@cms.hhs.gov
 7500 Security Blvd.
 Mail Stop, S3-14-28
 Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 1:47 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hi Jonathan,

See below Delegations of Authority (DoAs) that are related to taxes. We did request delegation at the Group Dir level which is why Rory is able to sign so this is not the latest. Can you confirm which DoAs would be pertinent to the tax letters that Rory signs?

87	<u>1903(w)(2)(B)</u> [42 USC 1396b(w) (2)(B)]	Determine that the State has satisfactorily established that a provider-related donation has no direct or indirect relationship to payments made, under Title XIX of the Social Security Act, to that provider, to providers furnishing the same class of items and services as the provider, or to any related entity.	Deputy Administrator & Dir/Dep Dir, CMCS	
88	<u>1903(w)(3)(C)(i)</u> (IV) [42 USC 1396b(w) (3)(C)(i)(IV)]	Determine that the State has satisfactorily established that any other tax has been imposed uniformly with respect to a health care related tax.	Deputy Administrator & Dir/Dep Dir, CMCS	
89	<u>1903(w)(3)(E)(i)</u> [42 USC 1396b(w) (3)(E)(i)]	Treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in a class (or all providers of such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of Section 1903(w)(3)(B) or (C) of the Social Security Act with respect to an application submitted by a State.	Deputy Administrator & Dir/Dep Dir, CMCS	
90	<u>1903(w)(3)(E)(ii)</u> [42 (USC 1396b (w)(3)(E)(ii)]	Approve such application if the State satisfactorily establishes that :(1) The net impact of the tax and associated	Deputy Administrator & Dir/Dep Dir, CMCS	

		expenditures under Title XIX of the Social Security Act as proposed by the State is generally redistributive in nature, and (2) The amount of the tax is not directly correlated to payments under Title XIX of the Social Security Act for items or services with respect to which the tax is imposed with respect to an application submitted by a State requesting that a tax be treated as a broad-based health care related tax.		
91	<u>1903(w)(4)</u> [42 USC 1396b(w) (4)]	Determine that any of the following applies: (1) The State or other unit of Government imposing the tax provides (directly or indirectly) for a payment (other than under Title XIX of the Social Security Act) to taxpayers, and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of the payment under the State plan; and (2) All or any portion of the payment under Title XIX of the Social Security Act to the taxpayer varies based only upon the amount of the total tax paid; and (C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax with respect to a broad-based health care related tax imposed with respect to a class of items or services.	Deputy Administrator & Dir/Dep Dir, CMCS	Amended per Section 403 of Public Law 109-432, 12/20/06
92	<u>1903(w)(5)(B)(ii)</u> [42 USC 1396b(w) (5)(B)(ii)]	Project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year Authority, with respect to a tax, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, that is not in effect throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	
93	<u>1903(w)(5)(C)(i)</u> [42 USC 1396b(w) (5)(C)(i)]	Determine the total amount of health care related taxes, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, based on only those taxes (including the tax rate or base) which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	
94	<u>1903(w)(5)(C)(ii)</u> [42 USC 1396b(w) (5)(C)(ii)]	Determine the amount of provider-related donations, under Section 1903(w)(5)(B)(i)(I) of the Social Security Act, based on programs in effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.	Deputy Administrator & Dir/Dep Dir, CMCS ARA, DFMFFSO, CFMFFSO	

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:36 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Thanks assisting us with this Beverly. We appreciate it.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:34 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>
Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Hi Jonathan,

Thanks for this reminder to the team and also me to confirm the Delegation of Authority for tax wavier signatures. I will look into this signatory level and will circle back.

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:26 AM
To: Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>
Subject: FW: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

Dear team,

North Carolina inquired today regarding the status of their revised NF tax waiver. The revised North Carolina NF and the two Michigan NFs still need to be signed by Rory. Since we have implemented the double checklist check in the future, we feel confident that situations such as the NC NF will not occur in the future. As a reminder, the NC NF tax waiver that we sent to Rory originally for signature was incorrect. We then sent him a revised version, which was also incorrect. We have since sent him a third, correct version, that is waiting to be signed. The new process involves checking the tax waiver checklist twice. The first time is before we put it on FMG internal clearance. The second time is after we present at FMG internal clearance and before we send an email to Rory for signature. After we check the checklist, as a way of ensuring that we have done it, I recommend sending an email to the team each time informing them that we have completed the checklist. We have followed this process for MI's NF tax waivers. As a result, this will not happen again.

In general, we do have an issue that documents that we send to Rory for signature may not get signed expeditiously. Given the volume of work Rory has this is certainly understandable. I recommend pursuing the option of investigating signature authority procedures to see if someone else may sign documents for Rory and, if so, who. Rory himself mentioned that this would be his preference. I think we should follow up on that. In general, I think we should also convene a working group to suggest and solicit feedback regarding these types of process improvements to help things work better, which after all never is complete. We can always do things better and more efficiently.

I look forward to more discussion on these topics.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>

Sent: Wednesday, February 1, 2023 11:16 AM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>

Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Subject: RE: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

This message was sent securely using Zix®

Awesome! Thanks so much for the information. We will keep this mind when sending emails in the future.

Cecilia Williams
State Plan and Amendments Coordinator
NC Medicaid

CMS003364cv1579



Vax Up **OR** Medicaid

Find a vaccine location, get questions answered and more at YourSpotYourShot.nc.gov.

Mobile: b(6)
Office: (919) 527-7105

Cecilia.Williams@dhhs.nc.gov

820 S. Boylan Ave., McBryde Building
1950 Mail Service Center
Raleigh, NC 27699-1950

[Twitter](#) | [Facebook](#) | [YouTube](#) | [LinkedIn](#)

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, February 1, 2023 11:15 AM
To: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>
Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>
Subject: [External] RE: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Thank you for checking. There was one individual who used to work with the CMS tax team but has since retired. His name is Jim Burns. He was our technical director in the Division of Financial Policy. His email address is no longer valid because he retired. He is copied on the email that you replied to. That is why you are getting the error message.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.

Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>
Sent: Wednesday, February 1, 2023 11:12 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Townes, Robert (CMS/CMCS) <Robert.Townes@cms.hhs.gov>; Smith, Falecia (CMS/CMCS) <Falecia.Smith@cms.hhs.gov>; Lannaman, Morlan (CMS/CMCS) <Morlan.Lannaman@cms.hhs.gov>
Cc: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>
Subject: CMS Approval Waiver of Uniform and Broad Based Nursing Facility Assessment Model

This message was sent securely using Zix®

Good morning, Jonathan!

An update was requested in a previous email. However, I received an “undeliverable” message and wanted to resend just to make sure it was not associated with your email address. Can you provide an update on the revised approval mentioned in the subject line above.

Thanks!

Cecilia Williams
State Plan and Amendments Coordinator
NC Medicaid (Benefits and Services)

Mobile: b(6)
Office: (919) 527-7105



Vax Up **OR** **Mask Up**

Find a vaccine location, get questions answered and more at YourSpotYourShot.nc.gov.

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized State official. Unauthorized disclosure of juvenile, health, legally privileged, or otherwise confidential information, including confidential information relating to an ongoing State procurement effort, is prohibited by law. If you have received this email in error, please notify the sender immediately and delete all records of this email.

This message was secured by **Zix**®.

This message was secured by **Zix**®.

Message

From: Arnold, Charlie (CMS/CMCS); [REDACTED] **b(6)**
[REDACTED] **b(6)**

Sent: 3/15/2023 4:44:33 PM

To: Howe, Rory (CMS/CMCS); [REDACTED] **b(6)**
[REDACTED] **b(6)**

CC: Maccarroll, Amber (CMS/CMCS); [REDACTED] **b(6)**
[REDACTED] **b(6)** Silanskis, Jeremy

Subject: 2019 DSH Audit and MIUR Data

Rory,

Rich said that on a call you asked us to hold on providing the remaining 2019 DSH audits and the MIUR data to Lewin, the new DSH contractor. Can we resume providing this information to them? We are also providing the MFAR comments and responses for the DSH provisions.

Thanks,

Charlie Arnold
Director
CMCS/FMG/DFP
Centers for Medicare & Medicaid Services
(443) 962-2499
(443) 380-5802 Fax

Any opinion expressed in this email communication does not represent the opinion of the agency and will not bind or obligate CMS. CMS has relied on the facts and information presented and if any material facts have not been disclosed, any opinion/advice is without force and effect. Any advice is limited to the facts presented and is part of informal discussions of the issues raised.

Message

From: Arnold, Charlie (CMS/CMCS) [REDACTED] b(6)
[REDACTED] b(6)
Sent: 1/12/2023 1:28:49 PM
To: Howe, Rory (CMS/CMCS) [REDACTED] b(6)
[REDACTED] b(6)
Subject: FW: FW: North Carolina
Attachments: Questions on North Carolina Hospital Tax Statistical Test and Hold Harmless Two.docx

Good morning Rory,

I want to make sure you saw this that was sent yesterday. We let DMCP know that we will send our questions to them today, as we discussed at FMG Clearance on yesterday.

Please let me know if you need anything else from us on this.

Thanks,

Charlie Arnold
Director
CMCS/FMG/DFP
(443) 962-2499

Any opinion expressed in this email communication does not represent the opinion of the agency and will not bind or obligate CMS. CMS has relied on the facts and information presented and if any material facts have not been disclosed, any opinion/advice is without force and effect. Any advice is limited to the facts presented and is part of informal discussions of the issues raised.

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, January 11, 2023 2:02 PM
To: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>
Subject: RE: North Carolina
Importance: High

Dear Rory,

In accordance with your feedback today at FMG internal clearance please see attached for the revised questions for North Carolina. Please let us know if we can send these to DMCP or if they need to be changed. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Wednesday, January 11, 2023 9:39 AM
To: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>
Subject: RE: North Carolina

Dear Rory,

In accordance with your instructions below we have revised the hold harmless questions to be more like what we sent to Nevada. We replaced the state's name. Other than that the letter is exactly the same. Please let us know if we can send both documents to North Carolina. In addition, please let us know if we need to tweak or change the questions in any way. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>
Sent: Tuesday, January 10, 2023 4:46 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: FW: North Carolina

FYI...

Charlie Arnold
Director

CMCS/FMG/DFP
(443) 962-2499

Any opinion expressed in this email communication does not represent the opinion of the agency and will not bind or obligate CMS. CMS has relied on the facts and information presented and if any material facts have not been disclosed, any opinion/advice is without force and effect. Any advice is limited to the facts presented and is part of informal discussions of the issues raised.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, January 10, 2023 4:05 PM
To: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: RE: North Carolina

Hi Charlie,

Let's discuss at the DFO/DFP Touch base tomorrow. Although we have very limited verbal information from the state expressing concerns about possible redistribution arrangements, I am concerned that the limited hold harmless questions here could be viewed as inconsistent with what we shared with Nevada (see attached – though notably, Nevada requested more detail on what assurances we would want).

Thanks,
Rory

From: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>
Sent: Tuesday, January 10, 2023 3:36 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: FW: North Carolina
Importance: High

Hi Rory,

We received the below email from DMCP. They are requesting our questions for NC by 1/20/2023 or the will recommend the approval of the SDP. We are not sure how to respond. We let them know that, because of a possible hold-harmless issue, you are reviewing the questions.

Have you had a chance to review the questions? How should we respond to DMCP?

Thanks,

Charlie Arnold
Director
CMCS/FMG/DFP
(443) 962-2499

Any opinion expressed in this email communication does not represent the opinion of the agency and will not bind or obligate CMS. CMS has relied on the facts and information presented and if any material facts have not been disclosed, any opinion/advice is without force and effect. Any advice is limited to the facts presented and is part of informal discussions of the issues raised.

From: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Sent: Tuesday, January 10, 2023 8:12 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>; Gibson, Alexis (CMS/CMCS) <alexis.gibson@cms.hhs.gov>
Subject: RE: North Carolina

Hi Jonathan and FMG colleagues,

Thank you for the update. As noted today, we are concerned with the length of time that this review has been on hold. We received the preprint in April 2022 and have been ready to approve this action pending this outstanding concern on the provider tax for several months. We appreciate that financing issues take time to resolve, but no questions have been issued to the state on the provider tax in months.

We appreciate that everyone is juggling several priorities, including NPRMs as well as ongoing work. However, we feel that continuing to hold this review in this manner is problematic.

If questions for the state cannot be finalized and sent to the state by COB 1/20, we will recommend moving ahead with approval of the SDP. We are happy to add language to the approval letter related to concerns around non-federal share if questions cannot be sent by that date; just let us know if you'd like to add the language and what language should be added.

We are happy to further discuss this if helpful.

Thanks,
Laura

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Monday, January 9, 2023 3:27 PM
To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Subject: RE: North Carolina

Lovie,

North Carolina was brought up today during a meeting with Rory. He said he would take a look at the questions and get back to us soon. We just wanted to keep you updated. Thanks.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)

Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Thursday, January 5, 2023 11:49 AM
To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Subject: RE: North Carolina

Thank you Lovie. We are waiting on clearance to send the questions from Rory. I hope to bring this up with Charlie today at our meeting. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Sent: Thursday, January 5, 2023 10:39 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Subject: RE: North Carolina

Hi Anna and Jonathan,

Happy New Year! As a follow up to the emails below, can you provide a status update on FMG's question sets for NC. The state has requested updates regarding the questions since November 2022. Can you assist us with getting the questions cleared? We'd like to respond to the state and send any questions from FMG this week if possible.

Thanks,
Lovie

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Thursday, December 15, 2022 12:05 PM
To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Subject: RE: North Carolina

Hello Lovie,

I can confirm that the issue was brought up at the meeting with Rory yesterday. Rory stated that he would take a look at the questions and loop back with us after he had a chance to review them. I will be sure to keep you updated as more information becomes available. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Thursday, December 15, 2022 10:58 AM
To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Subject: RE: North Carolina

Hello Lovie,

I believe there was supposed to be a meeting with Rory yesterday where we had planned to ask if Rory had taken a look at the questions for North Carolina. I am not sure if we brought that up at the meeting. Let me check and get back with you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Sent: Thursday, December 15, 2022 10:03 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Subject: RE: North Carolina

Hi Jonathan,

I'm following up on the email below. Have you received feedback from Rory regarding the North Carolina question sets? The state is requesting a status update.

Thank you,
Lovie

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Sent: Tuesday, December 13, 2022 1:45 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Subject: RE: North Carolina

Hi Jonathan and Stuart,

North Carolina is requesting a status update (please see attached email). During the FMG meeting yesterday and the email below you indicated you're waiting for feedback from Rory on the question sets. We'd like to respond to the state and send any questions from FMG this week if possible. We look forward to your update on next steps.

Thanks,

Lovie

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Sent: Monday, November 28, 2022 12:04 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: North Carolina

Hi Jonathan—Great! Thanks for the update.

Lovie

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Monday, November 28, 2022 11:50 AM

To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>

Subject: RE: North Carolina

Lovie,

Yes. We have questions about the tax waiver submission itself as well as about our hold harmless concerns. Similar to how we handled the Louisiana IP/OP hospital tax, our plan is to ask the questions related to the tax waiver submission itself to the state through the tax waiver submission process and our questions concerning possible hold harmless arrangements through the state-directed payment financing review process. On his request, we have sent both sets of questions to Rory and are waiting to hear back from him with his feedback before sending the questions to the state. Please let us know if we can be of any further assistance at this time. Thank you.

Best,

Jonathan

Jonathan Endelman

Social Science Research Analyst

Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)

Financial Management Group (FMG)

Division of Financial Policy (DFP)

410.786.4738

jonathan.endelman@cms.hhs.gov

7500 Security Blvd.

Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Sent: Monday, November 28, 2022 10:18 AM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: North Carolina

Hi Jonathan,

Happy Monday! North Carolina is requesting a status update regarding their tax waiver submission (please see attachment). Does FMG have follow questions for the state? I'll add this topic the DMCP/FMG meeting agenda for tomorrow.

Thanks,
Lovie

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Tuesday, November 1, 2022 1:39 PM

To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Subject: FW: North Carolina

Dear all,

I started to review North Carolina's IP hospital services and OP hospital services health care-related taxes. I can already tell this one is going to require a lot of work before it gets to something approaching a tax for which we could recommend approval. It's certainly not the most straight forward or easily understandable submission we have ever received. It's been a decade since the state has come in to us with a tax waiver submission and it shows. I don't think someone has worked on this data in a long time. In general, the more recent a tax waiver approval is, the better shape it tends to be. In an ideal world, states would go in every so often to make sure the data is correct, clean things up, etc. We had a section of MFAR that had an expiration date of three years for tax waivers that I think would have partially addressed this issue. Please see attached for questions and the submission from the State. Please also see attached for the tax waiver approval from 2011. Also, it would be good to hear more detail from Rory about what he knows specifically about the pooling and redistribution mechanism that we believe may be attached to this tax and the extant hold harmless concerns. I am copying DMCP for awareness. I will also copy when we send questions to the state.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)

410.786.4738

jonathan.endelman@cms.hhs.gov

7500 Security Blvd.

Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)

Sent: Friday, October 7, 2022 2:35 PM

To: cecilia.williams@dhhs.nc.gov; Betty.J.Staton@dhhs.nc.gov

Cc: Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; CMS State Directed Payment

<StateDirectedPayment@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Subject: North Carolina

Good afternoon Ms. Staton,

My name is Jonathan Endelman and I am a member of the tax team located in the Financial Management Group (FMG) at CMS. We are responsible for reviewing all health care-related tax waivers of the broad-based and uniformity requirements. We are acknowledging receipt of the State's submission of 10/6/2022 requesting a waiver of the broad-based and uniformity requirements for its inpatient and outpatient hospital services taxes. We will be in touch in case we have any questions or concerns over the course of our review. In the future, please address all tax waivers to:

Mr. Rory Howe, Director
Financial Management Group
Center for Medicaid and CHIP Services
U.S. Department of Health & Human Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850

Thank you.

Best,

Jonathan

Message

From: Mauser, Gayle (CMS/OL) [b(6)]
[b(6)]
Sent: 3/20/2023 1:30:01 PM
To: Howe, Rory (CMS/CMCS) [b(6)]
[b(6)] Silanskis, Jeremy
[b(6)]; Maccarroll, Amber
[b(6)]; Arnold, Charlie
[b(6)]; Boston, Beverly
CC: Kirchgraber, Kate (CMS/OL) [b(6)]
[b(6)] Wiley, Evelyn
Subject: RE: RE: E&C Majority Inquiry - Hold Harmless

Hi FMG team, lifting back up the talking points below for your review and clearance with leadership. Noting that we are assuming the call will be held by the 29th and thus did not update the talking points to reflect impending action in Missouri, which we understand is targeted for March 30.

Evelyn, can you help us identify some scheduling options (30 minutes) for the E&C majority staff call? If it's possible to have that call before the budget hearing on the 29th, that would be helpful.

Thanks,
Gayle

From: Mauser, Gayle (CMS/OL)
Sent: Monday, March 13, 2023 12:05 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi all, in addition to the follow-up we owe E&C majority staff, Rep. Al Green's (D-TX) office has inquired about the guidance and how it relates specifically to Texas. We would like to schedule a call between Rory and Rep. Green's office (it will be his Chief of Staff, but it is possible Rep. Green also joins). We'll provide draft Texas-specific talking points that build on the information provided below closer to the meeting.

In the interim, **Evelyn**, can you help us set up the following? If you can offer FMG availability, we will do our best to work around your schedules.

- 30 minutes to prep for the Al Green call, ideally in the couple of days prior to the actual briefing
- A few 30-minute holds that we can offer Rep. Green's office for the week of 3/27

Thanks!
Gayle

From: Mauser, Gayle (CMS/OL)
Sent: Friday, March 10, 2023 2:00 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi again FMG team,

We are following up on our prior discussion regarding the hold harmless question we received from E&C majority on what states have impermissible arrangements. Attention has been pulled away from this topic for a bit, but we expect that there will be renewed interest soon (and we've started to get some questions from a Texas member as well).

Below are draft talking points for a call with E&C majority, which include a few internal notes and a couple placeholders I am hoping you all can help fill in.

Rory, after FMG reviews these, I believe you were also going to run them by CMCS leadership. Looping Evelyn here to see if we can also hold some windows on your calendar to offer to Committee staff for this discussion – perhaps we aim for times within the next couple weeks? Committee staff haven't pinged us again yet, but we will let you know if they do.

Thanks,
Gayle

DRAFT Talking Points for E&C Majority Staff Call – Hold Harmless Guidance

- As you know, on February 17, 2023, CMS issued a Medicaid informational bulletin regarding health care-related taxes and hold harmless arrangements involving the redistribution of Medicaid payments.
- Hold harmless arrangements, as defined in the Medicaid statute, are arrangements in which the State or another unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax. The statute prohibits these arrangements.
- Recently, we have been approached by several states with questions about complying with this provision of law, and we have also learned of states that may have existing arrangements or are considering establishing them, particularly with respect to states establishing or renewing Medicaid managed care state directed payments.
- The informational bulletin reiterates the federal requirements concerning hold harmless arrangements with respect to health care-related taxes. We hope that this guidance provides additional clarity to states, and we also encourage them to raise any questions or concerns they may have about the permissibility of health care-related taxes to CMS as early in the process as possible, to avoid any issues.
- Regarding your question about which states may have these types of arrangements, there are 3 states that CMS understands may have impermissible hold harmless arrangements, and 1 state we wanted to mention as an example of where we were able to intervene early in the process of establishing what may have been an impermissible hold harmless arrangement.
- Starting with the 3 states that may have these arrangements:
 - **Texas:**
 - Texas has in place what is known as the Local Provider Payment Fund or LPPF. Based on information obtained by CMS, including limited information provided by the state and publicly available third-party materials, the LPPF arrangements used by some localities in Texas appear to include hold harmless arrangements because the localities impose a tax and the state directly or indirectly provides for payments that guarantee to hold the taxpayers harmless for all or any

portion of the tax amount. If our understanding of those LPPF arrangements is correct, they constitute hold harmless arrangements that are prohibited under the Medicaid statute and CMS regulations. [this language is pulled from the publicly available November 2021 [letter](#) to the State; page 5 includes additional detail regarding our understanding of the arrangement]

- CMS has communicated these concerns to the state and, when we recently approved Texas' state directed payments, we included in our approval letter that approval of the state directed payments does not constitute any specific Medicaid financing mechanism used to support the non-federal share of the provider payment arrangement. We also clarified that we reserve the authority to enforce requirements, including by initiating separate deferrals and/or disallowances of federal financial participation.
- As you may be aware, the HHS OIG [announced](#) in November 2021 that it is examining states' use of LPPFs as the state share of Medicaid payments, and that it expects to issue a report in FY 2023 that indicates whether the LPPFs the state agency used were permissible. [for internal awareness, the OIG work plan does not specifically name Texas]
- **Florida:**
 - Similarly, Florida has in place an LPPF that we also understand includes hold harmless arrangements. [the attached FMR engagement letter includes additional detail regarding our understanding of the arrangement]
 - In Florida's case, we were working with the state for some time in an effort to address the concerns, but have been unable to resolve them. Like Texas, we communicated our concerns to the state and, when we recently approved Florida's state directed payments, we provided the same information as was included in the letter to Texas—that the approval does not constitute approval of the Medicaid financing mechanism, and that we reserve the authority to enforce requirements.
 - In late February, we sent a letter to Florida initiating a Financial Management Review (FMR) to examine the state Medicaid agency's compliance with federal requirements over the next several months.
- **Missouri:**
 - Lastly, Missouri has a longstanding arrangement called the Federal Reimbursement Allowance tax program that appears to include a hold harmless arrangement, and in 2020, CMS engaged the state about its concerns. Also in 2020, the then CMCS Director sent a letter to the state describing our concerns and memorializing a conversation with state Medicaid agency leadership who at that time committed to ending the hold harmless arrangement by X timeframe.
 - While the state has not done that, state leadership has been willing to respond to CMS' questions. In late February, we also sent a letter to Missouri—but, based on our ability to obtain more information from Missouri, we have initiated a focused review of Missouri's program expenditures reported to CMS on the Form CMS-64, rather than an FMR. [the attached CMS-64 review letter includes some additional information]
- With respect to the state I mentioned where we were successful in intervening early:
 - **Louisiana:**
 - In X month and year, we received information that suggested Louisiana's legislature was developing what would have been a hold harmless arrangement as part of the financing mechanism for its state directed payment program. We engaged the state about those issues, worked with the state on alternatives that would comply with federal law, and ultimately the state withdrew the state directed payment proposal it had submitted and submitted a modified proposal.
- We are hopeful that the guidance we issued will further promote our efforts to work with states and get ahead of these issues as we did in Louisiana.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Sent: Tuesday, February 21, 2023 2:37 PM

To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Gayle,

A call sounds right to me. Please also include Jeremy, Amber, and Charlie in the discussion. For awareness, tomorrow, FMG is planning to issue a letter to Florida and a question set to Missouri on this issue. Both states appear to have concerning arrangements in place and the letter/question set tomorrow are part of our work to address the arrangements. Let me know if you have any questions in the interim.

Thanks,
Rory

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Sent: Tuesday, February 21, 2023 1:57 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Subject: E&C Majority Inquiry - Hold Harmless

Hi Rory,

After Friday's hold harmless CIB went out, we received an inquiry from House E&C majority staff asking for more information—in particular, about the language from the list serv notice indicating “recently, CMS became aware that some health care-related tax programs appear to involve agreements among providers to redistribute their Medicaid payments to hold taxpayers harmless for the cost of the tax.”

Specifically, the staff would like to know about the instances CMS has found, and the steps the agency is taking to address those agreements.

I imagine it will be most efficient to have a quick call to discuss actions to date, anticipated upcoming actions, and next steps for responding to the Hill—does that work for you? Are there others who should be included?

Thanks,
Gayle

Gayle Mauser
(she/her)
Low Income Programs Analysis Group
Office of Legislation
Centers for Medicare & Medicaid Services (CMS)
Cell Phone: b(6)

Message

From: Boston, Beverly (CMS/CMCS) [redacted] b(6)
[redacted] b(6)
Sent: 3/23/2023 1:07:43 PM
To: Ferguson, Dorothy (CMS/CMCS); [redacted] b(6)

[redacted] b(6)

[redacted] b(6)

CC:

Subject: Plan to Release the Missouri Deferral
Attachments: deferral Ltr-MO.2023.1.E.01.MAP DRAFT, 3-22-23.docx

- Endelman (he/him),
- Powell, Eric
- Curry, Celestine
- Arnold, Charlie
- Clark, Jennifer
- Cuno, Richard
- Fan, Kristin
- Goldstein, Stuart
- Heitt, Melissa
- McClure, Deb
- [redacted]; Mosley, Elle
- Schoonover, Matthew
- [redacted]; Goldstein, Stuart
- Lane, Robert
- Barraza, Leticia
- [redacted]
- Wanskis, Jeremy
- Maccarroll, Amber
- adams, lia (CMS/CMCS)

Good morning,

We are gearing up to issue a **deferral to MO in the amount of \$236,629,533 on Friday March 31, 2023 at 12pm** noon related to Missouri’s Federal Reimbursement Allowance (FRA) tax. Please see below anticipated steps that will need to be followed prior to issuing the deferral letter to the state. I will connect with the OCD on the ETA for items 1 and 2. Please let me know if I have missed anything in the steps below. For your awareness, the OCD Comms Team along with the Office of Communications is preparing a “**Reactive**

Statement” that I will circle back with the team on, to confirm any edits. Please let me know if I have missed anything, or if you have questions.

(1) Tues 3/28: Rory and the OCD will contact/call the MO SMD (Todd Richardson) to signal that the deferral is coming (ETA time for the call needed)

(2) Weds 3/29: OCD and OA will contact the MO Governor’s office to explain the reason for the deferral and that CMS is working with the state to obtain any additional documentation to support the claims(ETA time for the call needed)

(3) Thurs 3/30: OCD confirms that the Night Note went forward to OC in prep for a the 3/31 Grant award deferral letter being issued to the state

(4) Fri 3/31@ 12pm: Deferral letter is Issued to the state.

Thanks

Beverly

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Sent: Wednesday, March 22, 2023 9:36 AM

To: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>

Cc: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Powell, Eric (CMS/CMCS) <Eric.Powell@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>

Subject: RE: Night Note for Missouri Deferral

Good morning +Rory/Jeremy

Thanks Dorothy. I made some edits to the NN. Also, the OCD pinged me this morning on the TP Dan has requested for DPC. Not sure if anyone is work on those?

Missouri Federal Reimbursement Allowance (FRA) Tax Deferral

Tomorrow, CMCS will issue a deferral (a temporary hold on funding while CMS investigates further) related to Missouri’s Federal Reimbursement Allowance (FRA) tax in the amount of \$236,629,533 in federal financial participation (FFP). On December 31, 2022, CMS conducted a focused CMS-64 quarterly report review of Missouri’s FRA tax, to determine compliance with statutory and regulatory requirements, specifically whether a hold harmless arrangement exists due to providers redistributing Medicaid payments. The review confirmed our previous concerns that the tax may be unallowable, and as a result, a temporary hold is being placed on a portion of Medicaid funding while CMS continues to review information from the state to make a final determination of the allowability of the tax. Regulations require that a deferral must be taken within 60 days of receipt of the state’s quarterly expenditure report, which is March 31, 2023.

Beverly A. Boston


Senior Advisor & Assistant to the Group Director
Financial Management Group
Center for Medicaid and CHIP Services
Centers for Medicare & Medicaid Services
Beverly.Boston@CMS.HHS.Gov
410-786-4186

From: Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>
Sent: Tuesday, March 21, 2023 12:55 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Powell, Eric (CMS/CMCS) <Eric.Powell@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: Night Note for Missouri Deferral

Beverly, here is the night note for the Missouri Deferral to be taken on March 31, 2023. If you need additional information in the night note, let me know.

Tomorrow, CMCS will issue a deferral related to Missouri's Federal Reimbursement Allowance (FRA) tax in the amount of \$236,629,533 in federal financial participation as a result of a focused review of Missouri's FRA tax on the December 31, 2022, CMS-64 quarterly report, to determine compliance with statutory and regulatory requirements, specifically whether a hold harmless arrangement exists due to providers redistributing Medicaid payments. The review confirmed our previous concerns that the tax may be unallowable, and as a result, a temporary hold is being placed on a portion of Medicaid funding while CMS continues to review information from the state to make a final determination of the allowability of the tax. Regulations require that a deferral must be taken within 60 days of receipt of the state's quarterly expenditure report, which is March 31, 2023.

Thanks,

Dorothy Ferguson || Director, Division of Financial Operations West, FMG, CMCS || Centers for Medicare & Medicaid Services (CMS) || 1301 Young Street, Suite 837 || Dallas, TX 75202 || Dorothy.Ferguson@cms.hhs.gov || 214-767-6385 (ph) || 443-380-6399 (fax) ||  Please consider the environment before printing this e-mail.

Message

From: Knight, Gary (CMS/CMCS); [redacted] b(6)
[redacted] b(6)
Sent: 3/23/2023 4:00:39 PM
To: Howe, Rory (CMS/CMCS); [redacted] b(6)
[redacted] b(6)
lanskis, Jeremy
Maccarroll, Amber
CC: [redacted] b(6)
Sampson, Tamara
Subject: FW: FW: Oregon Hospital Tax

Rory/Jeremy/Amber,

I understand Todd shared the email circulated in MCOG about potential SPA review delays while the Oregon tax issue is resolved. What follows below is Jonathan's email consulting Jeremy Vogel on the Oregon tax and a response from DMCP concerning the impacted SDP review.

Positing whether we might consider a similar approach to action on Oregon SPAs that are in queue while the additional tax review work is completed (e.g. New Hampshire and Rhode Island).

Next up is an April 4th 90th day for an Oregon Rehab SPA that simply updates basic fee schedule language effective dates.

Thanks,
Gary

From: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Sent: Thursday, March 23, 2023 8:30 AM
To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Hi Jeremy,

Trying to keep up with the email; [redacted] b(5)
[redacted] b(5)

I ask because in the past; [redacted] b(5)
[redacted] b(5)

b(5)

I would also note that

b(5)

b(5)

As Jonathan noted,

b(5)

b(5)

Thanks,
Laura

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>

Sent: Wednesday, March 22, 2023 2:38 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS)

<STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>

Subject: RE: Oregon Hospital Tax

b(5)

b(5)

This mismatch was pointed out by commenters on the 1992

IFC, as discussed in the final rule at 58 FR 43162 (Aug. 13, 1993):

Comment: Several commenters indicated that the definition of inpatient hospital services that we presented in, the preamble of the interim final rule is not correct. (In that definition, we noted that inpatient hospital services includes all services defined as inpatient hospital services, such as inpatient psychiatric services.) The commenters noted that in both section 1905(a) of the Act and in the Federal Medicaid regulations at §440.10, inpatient hospital services specifically excludes services furnished in free-standing psychiatric hospitals (referred to under Medicaid as institutions for the mental diseases (IMDs)). Two commenters requested that the regulations be clarified to state that psychiatric hospital services are included in the inpatient hospital services class. One commenter recommended that the classes be expanded to include psychiatric hospitals, hospitals owned by HMOs, and hospitals that do not charge for care.

Response: We believe inpatient hospital services encompass all services provided in an inpatient hospital setting, including psychiatric services. Consequently, we believe psychiatric hospital services need not be listed as a specific inpatient hospital service. However, we have revised the regulations to add psychiatric hospitals as a favorable exception under the waiver standards for the broad-based and uniform requirements in §§ 433.68(e)(1) and (e)(2).

b(5)

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMDS
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 22, 2023 11:39 AM
To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Thanks Jeremy;

b(5)

b(5)

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Sent: Wednesday, March 22, 2023 11:04 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed

Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>

Subject: RE: Oregon Hospital Tax

Adding Don Kosin.

Let's find time to discuss. In the meantime, can you explain a bit more what SPA(s) is (are) necessary in connection with this tax

b(5)

Preliminarily,

b(5)

b(5)

b(5)

I suppose there

b(5)

b(5)

It certainly looks like the

b(5)

Jeremy Vogel (he/him)

Attorney, DHHS/OGC/CMDS

(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Wednesday, March 22, 2023 10:35 AM

To: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>

Subject: RE: Oregon Hospital Tax

Jeremy,

We had a legal question

b(5)

b(5)

To date, we have asked three rounds of questions since that time.

b(5)

b(5)

is from October 17, 2017, which has an effective date of January 1, 2018. In the tax waiver approval letter, the structure of the tax is described as follows:

- Public hospitals are excluded from both assessments
- Hospitals with more than fifty beds are taxed 6% of net inpatient revenues and 6% of net outpatient revenues
- All other hospitals are taxed at a rate of 4% of net inpatient revenues and 4% of net outpatient revenues

As you can see, the only hospitals that are listed in the approval letter as being excluded are public, i.e. governmental, local and/or state owned and operated hospitals.

On January 19, 2022, in the course of reviewing the funding sources of the non-federal share listed in the pre-print for a state-directed payment:

b(5)

b(5)

On October 6, 2022 SDP, DMCP provided us the following year's version of the same pre-print so that we could review the financing. In the pre-print submission:

b(5)

b(5)

On November 21, 2022 CMS asked Oregon to please why Oregon did not consider the taxes to be broad-based and uniform. On December 13, 2022, Oregon stated, "Oregon also excludes a Long-Term Acute Care (LTAC) facility and a private mental health hospital from the tax. Therefore, it is deemed not broad-based and uniform." Neither Oregon's tax waiver request letter from July 19, 2017, nor the CMS approval letter from October 17, 2017 mentions either LTAC or psychiatric, mental health hospitals, or IMDs (institutions for mental disease) as being excluded from the assessment.

On February 28, 2023, we had a call with the State of Oregon in which we asked them to explain this apparent discrepancy between the tax they say that they are imposing and the waiver approval letter that we issued to them in 2017. On the call, Oregon responded by saying that they did not believe that these two facilities needed to be listed as excluded in the approved tax waivers for these taxes from CMS because they did not feel as though they provided inpatient hospital services or outpatient hospital services. Generally, we are:

b(5)

b(5)

b(5)

We promised the State of Oregon that we would send them the regulatory definitions for inpatient hospital services and outpatient hospital services and told them that we would ask them a series of questions designed to determine if these two hospitals provide inpatient hospital services and outpatient hospital services.

On March 10, 2023, we provided Oregon with the regulatory definitions found at 42 CFR 440.10 (a)(3)(i) and 42 CFR 440.20 (a)(4) for inpatient hospital services and outpatient hospital services respectively. We also asked them to please provide:

1. The lines of the CMS 64 in which they claim expenditures for the facilities in question
2. The state plan pages that govern the reimbursement for the facilities in question
3. The names of any other psych or rehab hospitals that are similarly situated i.e. are private hospitals that are excluded from the taxes.

On March 16, 2023, the State of Oregon responded to our questions. They stated that Cedar Hills had no Medicaid payments. VIBRA had payments under the Line 1A of the CMS-64, which is the line for “inpatient hospital regular payments.” Both hospitals are reimbursed using state plan pages from 4.19 A, which is the section of the state plan used for inpatient hospital services. They also stated that VIBRA is the only LTAC hospital in Oregon and the only other psych hospital is Oregon State Hospital, which they don’t need to tax because it’s a state hospital. Plus their waiver lists “public hospitals” as clearly excluded from the tax.

We believe that **b(5)**

b(5)

b(5) Specifically, they state that because the definition for inpatient hospital services excludes IMDs and Cedar Hills qualifies as an IMD, Cedar Hills does not provide inpatient hospital services **b(5)**

b(5)

Oregon also argued that these hospitals do not provide inpatient and outpatient hospital services because they do not provide services that are furnished in treating inpatients and outpatients respectively, which is part of the regulatory definitions for these services, they do not provide these services. We do not find these arguments convincing.

In addition, we found a state law from 2017 law that removes an exclusion from taxation under these taxes for, “a hospital that provides only psychiatric care or a hospital identified by the Department of Human Services as appropriate for inclusion in the application described in section 4, chapter 736, Oregon Laws 2003.” We believe that the statement in

b(5)

We believe that the **b(5)**

b(5)

The State of Oregon has stated that the facilities in question have never been included in these taxes.

Thank you. We look forward to hearing from you. If you would like to schedule a meeting to discuss please let us know. As we mentioned **b(5)**

b(5)

b(5)

b(5)

We appreciate any assistance that you may be able to provide.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

Message

From: Richardson, Todd [Todd.Richardson@dss.mo.gov]
Sent: 3/21/2023 7:43:27 PM
To: Powell, Eric (CMS/CMCS); [Redacted] b(6)
CC: Howe, Rory (CMS/CMCS); [Redacted] b(6)
[Redacted] b(6) delman (he/him),
Kimble, Davida
Bray, Kimberlyn
[Kimberlyn.R.Bray@dss.mo.gov]; Luebbering, Patrick [Patrick.Luebbering@dss.mo.gov]; Brite, Tony
[Tony.Brite@dss.mo.gov]; Vitale, Desiree [Desiree.Vitale@dss.mo.gov]
Subject: CMS FRA QE 12/31/2022 Inquiry
Attachments: FRA Tax Questions QE 12-31-22.docx; #2-FRA Payments to Hospitals 3(e).xlsx; #1 - CMS Qtrly FRA Update - Scott Cover Letter with Attachment.pdf; #3 - MPP.pdf; #4 - Richardson Ltr to Tsai 8-24-22.pdf; #5 - SFY 2022 B1-B2 Hospital Final.xlsx; #6 - Preliminary SFY 2023 B1-B2 Using Sched 23-3 to MHD 7-20-22.xlsx; #7 - Inpatient FMP Directed Payments_111920 pp.pdf; #8 - MSC Health Plan MOU and Amendment.pdf

Mr. Powell,

Please see the attached updated response in FRA Tax Questions QE 12-31-22 document and updated exhibit #2-FRA Payments to Hospitals 3(e) document related to your question from February 22, 2023. There are no changes to the other exhibits.

Thank you,

Todd Richardson
Director
MO HealthNet

Message

From: Arnold, Charlie (CMS/CMCS) [REDACTED] b(6)
[REDACTED] b(6)
Sent: 3/24/2023 1:03:53 PM
To: Howe, Rory (CMS/CMCS) [REDACTED] b(6)
[REDACTED] b(6)
Subject: FW: FW: Oregon Hospital Tax

Rory,

Keeping you in the loop on this. Please see below especially the highlighted information from DRR and DMCP. They want to approve the OR SPAs and SDPs, before the state submits a new tax waiver. It appears that OR is resistant to submitting the waiver and feel they do not need to submit it.

Jeremy also responded to DMCP and DRR, "I am interested whether CMS would consider the SPAs approvable if it knows the state lacks a permissible source of non-federal share. I have seen disapprovals based on 1902(a)(2), where the state has failed to demonstrate it has an adequate source of non-federal share to support expenditures that would be authorized by the SPA."

There is a call scheduled for Thursday, October 30th at 3:00PM with OGC, DOB, DMCP, and DRR. I don't think they included you. I will be out. I will forward the appointment.

Thanks,

Charlie Arnold
Director
CMCS/FMG/DFP
(443) 962-2499

Any opinion expressed in this email communication does not represent the opinion of the agency and will not bind or obligate CMS. CMS has relied on the facts and information presented and if any material facts have not been disclosed, any opinion/advice is without force and effect. Any advice is limited to the facts presented and is part of informal discussions of the issues raised.

From: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>
Sent: Thursday, March 23, 2023 11:45 AM
To: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

Hello Jeremy and Jonathan,

DRR would like to thank both of you for your comments on this matter. There are several OR SPAs which are rapidly approaching the 90th day. In the interest of time management, I would like to propose that we move forward with

b(5)

This approach would be consistent with how similar issues have been addressed with other states and follows the guidance from the CMS tax team “we do not believe that we can stop the clock with a request for additional information, other than to inform the State of Oregon that they need to submit a new tax waiver for this tax to reflect the tax that they are actually collecting and request that they do so. We believe that is probably the next step. If we tell them that, we don’t know if they will submit a new tax waiver or not.”

If OR does not choose to submit a new tax waiver as requested by CMS, this potential issue can be addressed at a later date that is more advantageous to CMS.

Please advise on the feasibility of this approach.

Thanks,
James

From: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Sent: Thursday, March 23, 2023 5:30 AM
To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Hi Jeremy,

Trying to keep up with the email:

b(5)

b(5)

I ask because in the past:

b(5)

b(5)

I would also note that:

b(5)

b(5)

As Jonathan noted

b(5)

b(5)

Thanks,
Laura

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>

Sent: Wednesday, March 22, 2023 2:38 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS)

<STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>

Subject: RE: Oregon Hospital Tax

b(5)

b(5)

This mismatch was pointed out by commenters on the 1992 IFC, as discussed in the final rule at 58 FR 43162 (Aug. 13, 1993):

Comment: Several commenters indicated that the definition of inpatient hospital services that we presented in, the preamble of the interim final rule is not correct. (In that definition, we noted that inpatient hospital services includes all services defined as inpatient hospital services, such as inpatient psychiatric services.) The commenters noted that in both section 1905(a) of the Act and in the Federal Medicaid regulations at §440.10, inpatient hospital services specifically excludes services furnished in free-standing psychiatric hospitals (referred to under Medicaid as institutions for the mental diseases (IMDs)). Two commenters requested that the regulations be clarified to state that psychiatric hospital services are included in the inpatient hospital services class. One commenter recommended that the classes be expanded to include psychiatric hospitals, hospitals owned by HMOs, and hospitals that do not charge for care.

Response: We believe inpatient hospital services encompass all services provided in an inpatient hospital setting, including psychiatric services. Consequently, we believe psychiatric hospital services need not be listed as a specific inpatient hospital service. However, we have revised the regulations to add psychiatric hospitals as a favorable exception under the waiver standards for the broad-based and uniform requirements in §§ 433.68(e)(1) and (e)(2).

b(5)

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMSSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Wednesday, March 22, 2023 11:39 AM

To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>

Subject: RE: Oregon Hospital Tax

Thanks Jeremy.

b(5)

b(5)

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>

Sent: Wednesday, March 22, 2023 11:04 AM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>

Subject: RE: Oregon Hospital Tax

Adding Don Kosin.

Let's find time to discuss. In the meantime, can you explain a bit more what SPA(s) is (are) necessary in connection with this tax, [redacted] b(5)

Preliminary, my thinking [redacted] b(5)

b(5)

b(5)

b(5)

I suppose there is

b(5)

b(5)

It certainly looks like the

b(5)

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMSSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 22, 2023 10:35 AM
To: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

Jeremy,

We had a legal question re

b(5)

b(5)

To date, we have asked three rounds of questions since that time.

b(5)

b(5)

is from October 17, 2017, which has an effective date of January 1, 2018. In the tax waiver approval letter, the structure of the tax is described as follows:

- Public hospitals are excluded from both assessments
- Hospitals with more than fifty beds are taxed 6% of net inpatient revenues and 6% of net outpatient revenues
- All other hospitals are taxed at a rate of 4% of net inpatient revenues and 4% of net outpatient revenues

As you can see, the only hospitals that are listed in the approval letter as being excluded are public, i.e. governmental, local and/or state owned and operated hospitals.

On January 19, 2022, in the course of reviewing the funding sources of the non-federal share listed in the pre-print for a state-directed payment

b(5)

b(5)

On October 6, 2022 SDP, DMCP provided us the following year's version of the same pre-print so that we could review the financing. In the pre-print submission, however, **b(5)**

b(5) On November 21, 2022 CMS asked Oregon to please why Oregon did not consider the taxes to be broad-based and uniform. On December 13, 2022, Oregon stated, "Oregon also excludes a Long-Term Acute Care (LTAC) facility and a private mental health hospital from the tax. Therefore, it is deemed not broad-based and uniform." Neither Oregon's tax waiver request letter from July 19, 2017, nor the CMS approval letter from October 17, 2017 mentions either LTAC or psychiatric, mental health hospitals, or IMDs (institutions for mental disease) as being excluded from the assessment.

On February 28, 2023, we had a call with the State of Oregon in which we asked them to explain this apparent discrepancy between the tax they say that they are imposing and the waiver approval letter that we issued to them in 2017. On the call, Oregon responded by saying that they did not believe that these two facilities needed to be listed as excluded in the approved tax waivers for these taxes from CMS because they did not feel as though they provided inpatient hospital services or outpatient hospital services. Generally, we are **b(5)**

b(5)

b(5)

However, **b(5)**

b(5)

b(5)

b(5) We promised the State of Oregon that we would send them the regulatory definitions for inpatient hospital services and outpatient hospital services and told them that we would ask them a series of questions designed to determine if these two hospitals provide inpatient hospital services and outpatient hospital services.

On March 10, 2023, we provided Oregon with the regulatory definitions found at 42 CFR 440.10 (a)(3)(i) and 42 CFR 440.20 (a)(4) for inpatient hospital services and outpatient hospital services respectively. We also asked them to please provide:

1. The lines of the CMS 64 in which they claim expenditures for the facilities in question
2. The state plan pages that govern the reimbursement for the facilities in question
3. The names of any other psych or rehab hospitals that are similarly situated i.e. are private hospitals that are excluded from the taxes.

On March 16, 2023, the State of Oregon responded to our questions. They stated that Cedar Hills had no Medicaid payments. VIBRA had payments under the Line 1A of the CMS-64, which is the line for "inpatient hospital regular payments." Both hospitals are reimbursed using state plan pages from 4.19 A, which is the section of the state plan used for inpatient hospital services. They also stated that VIBRA is the only LTAC hospital in Oregon and the only other psych hospital is Oregon State Hospital, which they don't need to tax because it's a state hospital. Plus their waiver lists "public hospitals" as clearly excluded from the tax.

We believe that **b(5)**

b(5)

b(5)

b(5) Specifically, they state that because the definition for inpatient hospital services excludes IMDs and Cedar Hills qualifies as an IMD, Cedar Hills does not provide inpatient hospital services. **b(5)**

b(5)

Oregon also argued that these hospitals do not provide inpatient and outpatient hospital services because they do not provide services that are furnished in treating inpatients and outpatients respectively, which is part of the regulatory definitions for these services, they do not provide these services. We do not find these arguments convincing.

In addition, we found a state law from 2017 law that removes an exclusion from taxation under these taxes for, “a hospital that provides only psychiatric care or a hospital identified by the Department of Human Services as appropriate for inclusion in the application described in section 4, chapter 736, Oregon Laws 2003.” We believe that the statement in

b(5)

The State of Oregon has stated that the facilities in question have never been included in these taxes.

Thank you. We look forward to hearing from you. If you would like to schedule a meeting to discuss please let us know. As we mentioned: **b(5)**

b(5)

b(5)

We appreciate any assistance that you may be able to provide.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)

Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

Message

From: Mauser, Gayle (CMS/OL); [REDACTED] b(6)
[REDACTED] b(6)
Sent: 3/24/2023 1:10:27 PM
To: Howe, Rory (CMS/CMCS); [REDACTED] b(6)
[REDACTED] b(6)
[REDACTED] b(6)
[REDACTED] b(6)
[REDACTED] b(6)
CC: Kirchgraber, Kate (CMS/OL); [REDACTED] b(6)
[REDACTED] b(6)
[REDACTED] b(6)
Subject: RE: RE: E&C Majority Inquiry - Hold Harmless

nskis, Jeremy
accarroll, Amber
Arnold, Charlie
oston, Beverly
Wiley, Evelyn

Good morning,

An update that we will not be meeting with E&C Committee staff early next week (TBD if that will still happen at a later time) but the briefing with Rep. Al Green's office regarding Texas is confirmed for Wednesday, with a prep call scheduled for Tuesday.

Below are updated talking points focused specifically on Texas.

I believe you all wanted to run these past OCD—can you let us know if you need anything from us on that front?

Thanks,
Gayle

DRAFT Talking Points for Briefing with Rep. Al Green's Office— Hold Harmless Guidance

- We know you are interested in particular on Texas, but we thought it might be helpful to first provide some general context about the guidance you asked about:
 - As you know, on February 17, 2023, CMS issued a Medicaid informational bulletin regarding health care-related taxes and hold harmless arrangements involving the redistribution of Medicaid payments.
 - Hold harmless arrangements, as defined in the Medicaid statute, are arrangements in which the State or another unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax. The statute prohibits these arrangements.
 - Recently, we have been approached by several states with questions about complying with this provision of law, and we have also learned of states that may have existing arrangements or are considering establishing them, particularly with respect to states establishing or renewing Medicaid managed care state directed payments.
 - The informational bulletin reiterates the federal requirements concerning hold harmless arrangements with respect to health care-related taxes. We hope that this guidance provides additional clarity to states, and we also encourage them to raise any questions or concerns they may have about the permissibility of health care-related taxes to CMS as early in the process as possible, to avoid any issues.
- With respect to Texas specifically:

- As you know, Texas has in place what is known as the Local Provider Payment Fund or LPPF. Based on information obtained by CMS, including limited information provided by the state and publicly available third-party materials, the LPPF arrangements used by some localities in Texas appear to include hold harmless arrangements because the localities impose a tax and the state directly or indirectly provides for payments that guarantee to hold the taxpayers harmless for all or any portion of the tax amount. If our understanding of those LPPF arrangements is correct, they constitute hold harmless arrangements that are prohibited under the Medicaid statute and CMS regulations. [this language is pulled from the publicly available November 2021 [letter](#) to the State; page 5 includes additional detail regarding our understanding of the arrangement]
- CMS has communicated these concerns to the state and, when we recently approved Texas' state directed payments, we included in our approval letter that approval of the state directed payments does not constitute any specific Medicaid financing mechanism used to support the non-federal share of the provider payment arrangement. We also clarified that we reserve the authority to enforce requirements, including by initiating separate deferrals and/or disallowances of federal financial participation.
- As you may be aware, the HHS OIG [announced](#) in November 2021 that it is examining states' use of LPPFs as the state share of Medicaid payments, and that it expects to issue a report in FY 2023 that indicates whether the LPPFs the state agency used were permissible. [for internal awareness, the OIG work plan does not specifically name Texas]
- As is the case with any state, if CMS or an oversight agency discovers the existence of impermissible financing practices related to health care related taxes, CMS will take enforcement action as necessary.

From: Mauser, Gayle (CMS/OL)

Sent: Monday, March 20, 2023 9:30 AM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>

Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi FMG team, lifting back up the talking points below for your review and clearance with leadership. Noting that we are assuming the call will be held by the 29th and thus did not update the talking points to reflect impending action in Missouri, which we understand is targeted for March 30.

Evelyn, can you help us identify some scheduling options (30 minutes) for the E&C majority staff call? If it's possible to have that call before the budget hearing on the 29th, that would be helpful.

Thanks,
Gayle

From: Mauser, Gayle (CMS/OL)

Sent: Monday, March 13, 2023 12:05 PM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>

Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi all, in addition to the follow-up we owe E&C majority staff, Rep. Al Green's (D-TX) office has inquired about the guidance and how it relates specifically to Texas. We would like to schedule a call between Rory and Rep. Green's office

(it will be his Chief of Staff, but it is possible Rep. Green also joins). We'll provide draft Texas-specific talking points that build on the information provided below closer to the meeting.

In the interim, **Evelyn**, can you help us set up the following? If you can offer FMG availability, we will do our best to work around your schedules.

- 30 minutes to prep for the AI Green call, ideally in the couple of days prior to the actual briefing
- A few 30-minute holds that we can offer Rep. Green's office for the week of 3/27

Thanks!
Gayle

From: Mauser, Gayle (CMS/OL)
Sent: Friday, March 10, 2023 2:00 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi again FMG team,

We are following up on our prior discussion regarding the hold harmless question we received from E&C majority on what states have impermissible arrangements. Attention has been pulled away from this topic for a bit, but we expect that there will be renewed interest soon (and we've started to get some questions from a Texas member as well).

Below are draft talking points for a call with E&C majority, which include a few internal notes and a couple placeholders I am hoping you all can help fill in.

Rory, after FMG reviews these, I believe you were also going to run them by CMCS leadership. Looping Evelyn here to see if we can also hold some windows on your calendar to offer to Committee staff for this discussion – perhaps we aim for times within the next couple weeks? Committee staff haven't pinged us again yet, but we will let you know if they do.

Thanks,
Gayle

DRAFT Talking Points for E&C Majority Staff Call – Hold Harmless Guidance

- As you know, on February 17, 2023, CMS issued a Medicaid informational bulletin regarding health care-related taxes and hold harmless arrangements involving the redistribution of Medicaid payments.
- Hold harmless arrangements, as defined in the Medicaid statute, are arrangements in which the State or another unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax. The statute prohibits these arrangements.
- Recently, we have been approached by several states with questions about complying with this provision of law, and we have also learned of states that may have existing arrangements or are considering establishing them, particularly with respect to states establishing or renewing Medicaid managed care state directed payments.
- The informational bulletin reiterates the federal requirements concerning hold harmless arrangements with respect to health care-related taxes. We hope that this guidance provides additional clarity to states, and we also encourage them to raise any questions or concerns they may have about the permissibility of health care-related taxes to CMS as early in the process as possible, to avoid any issues.

- Regarding your question about which states may have these types of arrangements, there are 3 states that CMS understands may have impermissible hold harmless arrangements, and 1 state we wanted to mention as an example of where we were able to intervene early in the process of establishing what may have been an impermissible hold harmless arrangement.
- Starting with the 3 states that may have these arrangements:
 - **Texas:**
 - Texas has in place what is known as the Local Provider Payment Fund or LPPF. Based on information obtained by CMS, including limited information provided by the state and publicly available third-party materials, the LPPF arrangements used by some localities in Texas appear to include hold harmless arrangements because the localities impose a tax and the state directly or indirectly provides for payments that guarantee to hold the taxpayers harmless for all or any portion of the tax amount. If our understanding of those LPPF arrangements is correct, they constitute hold harmless arrangements that are prohibited under the Medicaid statute and CMS regulations. [this language is pulled from the publicly available November 2021 [letter](#) to the State; page 5 includes additional detail regarding our understanding of the arrangement]
 - CMS has communicated these concerns to the state and, when we recently approved Texas' state directed payments, we included in our approval letter that approval of the state directed payments does not constitute any specific Medicaid financing mechanism used to support the non-federal share of the provider payment arrangement. We also clarified that we reserve the authority to enforce requirements, including by initiating separate deferrals and/or disallowances of federal financial participation.
 - As you may be aware, the HHS OIG [announced](#) in November 2021 that it is examining states' use of LPPFs as the state share of Medicaid payments, and that it expects to issue a report in FY 2023 that indicates whether the LPPFs the state agency used were permissible. [for internal awareness, the OIG work plan does not specifically name Texas]
 - **Florida:**
 - Similarly, Florida has in place an LPPF that we also understand includes hold harmless arrangements. [the attached FMR engagement letter includes additional detail regarding our understanding of the arrangement]
 - In Florida's case, we were working with the state for some time in an effort to address the concerns, but have been unable to resolve them. Like Texas, we communicated our concerns to the state and, when we recently approved Florida's state directed payments, we provided the same information as was included in the letter to Texas—that the approval does not constitute approval of the Medicaid financing mechanism, and that we reserve the authority to enforce requirements.
 - In late February, we sent a letter to Florida initiating a Financial Management Review (FMR) to examine the state Medicaid agency's compliance with federal requirements over the next several months.
 - **Missouri:**
 - Lastly, Missouri has a longstanding arrangement called the Federal Reimbursement Allowance tax program that appears to include a hold harmless arrangement, and in 2020, CMS engaged the state about its concerns. Also in 2020, the then CMCS Director sent a letter to the state describing our concerns and memorializing a conversation with state Medicaid agency leadership who at that time committed to ending the hold harmless arrangement by X timeframe.
 - While the state has not done that, state leadership has been willing to respond to CMS' questions. In late February, we also sent a letter to Missouri—but, based on our ability to obtain more information from Missouri, we have initiated a focused review of Missouri's program expenditures reported to CMS on the Form CMS-64, rather than an FMR. [the attached CMS-64 review letter includes some additional information]
- With respect to the state I mentioned where we were successful in intervening early:
 - **Louisiana:**

- In X month and year, we received information that suggested Louisiana’s legislature was developing what would have been a hold harmless arrangement as part of the financing mechanism for its state directed payment program. We engaged the state about those issues, worked with the state on alternatives that would comply with federal law, and ultimately the state withdrew the state directed payment proposal it had submitted and submitted a modified proposal.
- We are hopeful that the guidance we issued will further promote our efforts to work with states and get ahead of these issues as we did in Louisiana.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Sent: Tuesday, February 21, 2023 2:37 PM

To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>

Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Gayle,

A call sounds right to me. Please also include Jeremy, Amber, and Charlie in the discussion. For awareness, tomorrow, FMG is planning to issue a letter to Florida and a question set to Missouri on this issue. Both states appear to have concerning arrangements in place and the letter/question set tomorrow are part of our work to address the arrangements. Let me know if you have any questions in the interim.

Thanks,
Rory

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>

Sent: Tuesday, February 21, 2023 1:57 PM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>

Subject: E&C Majority Inquiry - Hold Harmless

Hi Rory,

After Friday’s hold harmless CIB went out, we received an inquiry from House E&C majority staff asking for more information—in particular, about the language from the list serv notice indicating “recently, CMS became aware that some health care-related tax programs appear to involve agreements among providers to redistribute their Medicaid payments to hold taxpayers harmless for the cost of the tax.”

Specifically, the staff would like to know about the instances CMS has found, and the steps the agency is taking to address those agreements.

I imagine it will be most efficient to have a quick call to discuss actions to date, anticipated upcoming actions, and next steps for responding to the Hill—does that work for you? Are there others who should be included?

Thanks,
Gayle

Gayle Mauser

(she/her)

Low Income Programs Analysis Group

Office of Legislation

Centers for Medicare & Medicaid Services (CMS)

Cell Phone: **b(6)**

Message

From: Arnold, Charlie (CMS/CMCS) [REDACTED] b(6)
[REDACTED] b(6)
Sent: 3/24/2023 7:46:55 PM
To: Howe, Rory (CMS/CMCS) [REDACTED] b(6)
[REDACTED] b(6)
Subject: FW: FW: Oregon Hospital Tax

Hi Rory,

I did not get the same understanding as Laura's from the Jeremy's comments. See highlight two emails below. I guess it can be settled at the call with OGC next Thursday.

Thanks,

Charlie Arnold
Director
CMCS/FMG/DFP
(443) 962-2499

Any opinion expressed in this email communication does not represent the opinion of the agency and will not bind or obligate CMS. CMS has relied on the facts and information presented and if any material facts have not been disclosed, any opinion/advice is without force and effect. Any advice is limited to the facts presented and is part of informal discussions of the issues raised.

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Friday, March 24, 2023 3:44 PM
To: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>
Cc: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/CMCS) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>; Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

Thanks for the clarification. Yes. I understood you incorrectly. I thought you were talking about bringing Oregon to OCD on April 6. When I spoke with him, Rory mentioned that all companion letters needed OA clearance prior to issuing. I am relaying the information that I heard from him.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)

Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Sent: Friday, March 24, 2023 3:40 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>
Cc: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>; Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

Hi Jonathan,

I think there may be some confusion; we are taking the question about posting companion letters on Medicaid.gov up to OCD at cross cutting clearance on April 6th.

OGC's advice is [redacted] b(5)
[redacted] b(5) If the recommendation from FMG would still be to continue holding approval of the SDPs, then [redacted] b(5)
[redacted] b(5)

Thanks,
Laura

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Thursday, March 23, 2023 4:25 PM
To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>
Cc: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

Laura,

I agree that theoretically [redacted] b(5)
[redacted] b(5) However, that approach would need to be cleared by

OCD and I believe OA. I appreciate your putting this issue on cross-cutting clearance because I believe OCD and OA would need to weigh in on it before we could do that.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)

Sent: Thursday, March 23, 2023 4:09 PM

To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>

Cc: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>

Subject: RE: Oregon Hospital Tax

Also, Gary and James, FYI regarding the SPA I raised the issue with Charlie Arnold of the “qualifying language option” of approving the SPA while including something along the lines that you suggested in the letter. She stated, in line with what I thought, that she would only be comfortable with taking that approach if we get an explicit authorization from Rory. She stated that she will try to connect with him as soon as possible in order to gauge his thoughts on the issue.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)

Sent: Thursday, March 23, 2023 3:55 PM

To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>

Cc: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>

Subject: RE: Oregon Hospital Tax

Hello Jeremy, Don, and Colleagues,

I scheduled the meeting to discuss the State of Oregon's health care-related tax on IP and OP hospital services as well as the tax waiver best practices document on March 30, 2023. That seemed to work the best for the most people. If that does not work for you, or if you would like to have separate meetings, please do let me know.

Best,

Jonathan

Jonathan Endelman, PhD

Social Science Research Analyst

Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)

Financial Management Group (FMG)

Division of Financial Policy (DFP)

410.786.4738

jonathan.endelman@cms.hhs.gov

7500 Security Blvd.

Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)

Sent: Thursday, March 23, 2023 3:40 PM

To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>

Cc: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>

Subject: RE: Oregon Hospital Tax

Jeremy and Don,

I wanted to raise something else to you that I thought it might be good to discuss. On Wednesday of this week, at FMG Internal Clearance, the Division of Financial Policy presented a series of best practice documents that will aid states in submitting health care-related tax waivers. Please see attached. We presented three documents:

1. A short introductory letter explaining what the best practices are and why we are releasing them.
2. A longer list of best practices that we found have worked well when states submit health care-related tax waivers.
3. A hypothetical example of a "Medicaid utilization test" formerly known as a Fan-Goldstein or a Goldstein-Fan test that we like to receive when getting tax waivers.

Included as part of these documents, we are rolling out a new health care-related tax mailbox that will be the preferred method of health care-related tax submissions going forward. We believe that this mailbox will cut down on tax waiver submission bottlenecks, for example when someone goes on vacation or the state sends the submission to the wrong group. In addition, it will serve as a one-stop-shop for healthcare-related tax advice.

Our preferred approach is as follows:

1. OGD is currently reviewing the document and making line edits
2. OGD has, in principle, approved us releasing versions of these three documents after appropriate edits and review have been made.
3. We are also planning to brief our Center leadership on the topic
4. OGD has also approved posting these documents, after appropriate review and 508-compliance checks, on Medicaid.gov. We will be working with OSG, who runs Medicaid.gov to see the mechanics of doing that.
5. We also will be in contact with Mitch Bryman at the Office of Strategic and Regulatory Affairs to see if our current health care-related tax waiver needs to be modified as a result of these documents. We do not believe this should be the case as these are suggestions, not requirements, and we have an already approved PRA package for health care-related tax waiver submission.
6. OGD has asked us to have OGC approve this general approach.
7. After OGD has finished its edits to the document, OGD has asked us to share the final version with OGC so that they can make edits to the final document.

If you would like to have a separate meeting for this, please let us know. Likewise, if you would like to discuss both the Oregon issue and this issue, please let us know. Please find attached the draft documents that we have so far. Many people have worked a very long time to bring this project this far. In particular, we could not have set up the mailbox without assistance from Lela Teal during her detail with FMG. We hope that the reaction from states to this issuance will be non-negative, because we are trying to help states submit their health care-related tax waivers. The goal is to make health care-related tax waiver submission process be more efficient so that we get the right information at the right time and we can evaluate and, if appropriate, approve them faster. The mailbox has been created and is currently operational. Some states are already using it.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)

410.786.4738

jonathan.endelman@cms.hhs.gov

7500 Security Blvd.

Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>

Sent: Thursday, March 23, 2023 1:34 PM

To: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>

Cc: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>

Subject: RE: Oregon Hospital Tax

Thanks, Gary; that's helpful background to have in front of us.

Jeremy Vogel (he/him)

Attorney, DHHS/OGC/CMUSD

(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>

Sent: Thursday, March 23, 2023 1:26 PM

To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>

Cc: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>

Subject: RE: Oregon Hospital Tax

Hi Jeremy,

Sharing and adding that FMG has used a similar approach recently in New Hampshire and Rhode Island.

<https://www.medicaid.gov/medicaid/spa/downloads/NH-22-0050.pdf>

<https://www.medicaid.gov/medicaid/spa/downloads/RI-22-0018.pdf>

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>

Sent: Thursday, March 23, 2023 1:05 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

I will watch for an appointment. I am interested whether CMS would consider the SPAs approvable if it knows the state lacks a permissible source of non-federal share. I have seen disapprovals based on 1902(a)(2), where the state has failed to demonstrate it has an adequate source of non-federal share to support expenditures that would be authorized by the SPA.

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMSSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Thursday, March 23, 2023 12:16 PM

To: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

Thanks James. I believe we could stop the clock if we asked them to submit a tax waiver, which I believe we should do. The question would be, "Can the State of Oregon please submit a new tax waiver that reflects the tax they are actually collecting?" That would be my recommendation.

I am not sure about qualifying language in the approval letter. We would probably need to take that to DFP and FMG leadership to weigh in. I will send out an appointment shortly to meet with Jeremy Vogel.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738

jonathan.endelman@cms.hhs.gov

7500 Security Blvd.

Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>

Sent: Thursday, March 23, 2023 11:45 AM

To: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS)

<STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>

Subject: RE: Oregon Hospital Tax

Hello Jeremy and Jonathan,

DRR would like to thank both of you for your comments on this matter. There are several OR SPAs which are rapidly approaching the 90th day. In the interest of time management, I would like to propose that we move forward with approval of these pending SPAs with qualifying language in the approval letter requesting OR to submit a new tax waiver.

This approach would be consistent with how similar issues have been addressed with other states and follows the guidance from the CMS tax team "we do not believe that we can stop the clock with a request for additional information, other than to inform the State of Oregon that they need to submit a new tax waiver for this tax to reflect the tax that they are actually collecting and request that they do so. We believe that is probably the next step. If we tell them that, we don't know if they will submit a new tax waiver or not."

If OR does not choose to submit a new tax waiver as requested by CMS, this potential issue can be addressed at a later date that is more advantageous to CMS.

Please advise on the feasibility of this approach.

Thanks,

James

From: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>

Sent: Thursday, March 23, 2023 5:30 AM

To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS)

<STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>

Subject: RE: Oregon Hospital Tax

Hi Jeremy,

Trying to keep up with the email:

b(5)

b(5)

I ask because in the past:

b(5)

b(5)

I would also note that:

b(5)

b(5)

As Jonathan noted:

b(5)

b(5)

Thanks,
Laura

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>

Sent: Wednesday, March 22, 2023 2:38 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS)

<STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>

Subject: RE: Oregon Hospital Tax

b(5)

b(5)

This mismatch was pointed out by commenters on the 1992 IFC, as discussed in the final rule at 58 FR 43162 (Aug. 13, 1993):

Comment: Several commenters indicated that the definition of inpatient hospital services that we presented in, the preamble of the interim final rule is not correct. (In that definition, we noted that inpatient hospital services includes all services defined as inpatient hospital services, such as inpatient psychiatric services.) The

commenters noted that in both section 1905(a) of the Act and in the Federal Medicaid regulations at §440.10, inpatient hospital services specifically excludes services furnished in free-standing psychiatric hospitals (referred to under Medicaid as institutions for the mental diseases (IMDs)). Two commenters requested that the regulations be clarified to state that psychiatric hospital services are included in the inpatient hospital services class. One commenter recommended that the classes be expanded to include psychiatric hospitals, hospitals owned by HMOs, and hospitals that do not charge for care.

Response: We believe inpatient hospital services encompass all services provided in an inpatient hospital setting, including psychiatric services. Consequently, we believe psychiatric hospital services need not be listed as a specific inpatient hospital service. However, we have revised the regulations to add psychiatric hospitals as a favorable exception under the waiver standards for the broad-based and uniform requirements in §§ 433.68(e)(1) and (e)(2).

b(5)

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMSSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 22, 2023 11:39 AM
To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Thanks Jeremy!

b(5)

b(5)

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.

Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Sent: Wednesday, March 22, 2023 11:04 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Adding Don Kosin.

Let's find time to discuss. In the meantime, can you explain a bit more what SPA(s) is (are) necessary in connection with this tax, [REDACTED] b(5)

Preliminarily, [REDACTED] b(5)

b(5)

b(5)

I suppose there

b(5)

b(5)

It certainly looks like:

b(5)

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMUSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 22, 2023 10:35 AM
To: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

Jeremy,

We had a legal question

b(5)

b(5)

To date, we have asked three rounds of questions since that time

b(5)

b(5)

is from October 17, 2017, which has an effective date of January 1, 2018. In the tax waiver approval letter, the structure of the tax is described as follows:

- Public hospitals are excluded from both assessments
- Hospitals with more than fifty beds are taxed 6% of net inpatient revenues and 6% of net outpatient revenues
- All other hospitals are taxed at a rate of 4% of net inpatient revenues and 4% of net outpatient revenues

As you can see, the only hospitals that are listed in the approval letter as being excluded are public, i.e. governmental, local and/or state owned and operated hospitals.

On January 19, 2022, in the course of reviewing the funding sources of the non-federal share listed in the pre-print for a state-directed payment

b(5)

b(5)

On October 6, 2022 SDP, DMCP provided us the following year's version of the same pre-print so that we could review the financing. In the pre-print submission

b(5)

b(5)

On November 21, 2022 CMS asked Oregon to please why Oregon did not consider the taxes to be broad-based and uniform. On December 13, 2022, Oregon stated, "Oregon also excludes a Long-Term Acute Care (LTAC) facility and a private mental health hospital from the tax. Therefore, it is deemed not broad-based and uniform." Neither Oregon's tax waiver request letter from July 19, 2017, nor the CMS approval letter from October 17, 2017 mentions either LTAC or psychiatric, mental health hospitals, or IMDs (institutions for mental disease) as being excluded from the assessment.

On February 28, 2023, we had a call with the State of Oregon in which we asked them to explain this apparent discrepancy between the tax they say that they are imposing and the waiver approval letter that we issued to them in 2017. On the call, Oregon responded by saying that they did not believe that these two facilities needed to be listed as excluded in the approved tax waivers for these taxes from CMS because they did not feel as though they provided inpatient hospital services or outpatient hospital services. Generally, we are

b(5)

b(5)

b(5)

However

b(5)

b(5)

b(5)

b(5)

We promised the

State of Oregon that we would send them the regulatory definitions for inpatient hospital services and outpatient hospital services and told them that we would ask them a series of questions designed to determine if these two hospitals provide inpatient hospital services and outpatient hospital services.

On March 10, 2023, we provided Oregon with the regulatory definitions found at 42 CFR 440.10 (a)(3)(i) and 42 CFR 440.20 (a)(4) for inpatient hospital services and outpatient hospital services respectively. We also asked them to please provide:

1. The lines of the CMS 64 in which they claim expenditures for the facilities in question
2. The state plan pages that govern the reimbursement for the facilities in question
3. The names of any other psych or rehab hospitals that are similarly situated i.e. are private hospitals that are excluded from the taxes.

On March 16, 2023, the State of Oregon responded to our questions. They stated that Cedar Hills had no Medicaid payments. VIBRA had payments under the Line 1A of the CMS-64, which is the line for "inpatient hospital regular payments." Both hospitals are reimbursed using state plan pages from 4.19 A, which is the section of the state plan used for inpatient hospital services. They also stated that VIBRA is the only LTAC hospital in Oregon and the only other psych hospital is Oregon State Hospital, which they don't need to tax because it's a state hospital. Plus their waiver lists "public hospitals" as clearly excluded from the tax.

We believe that

b(5)

b(5)

b(5)

Specifically, they state that because

the definition for inpatient hospital services excludes IMDs and Cedar Hills qualifies as an IMD, Cedar Hills does not provide inpatient hospital services

b(5)

b(5)

Oregon also argued that these hospitals do not provide inpatient and outpatient hospital services because they do not provide services that are furnished in treating inpatients and outpatients respectively, which is part of the regulatory definitions for these services, they do not provide these services. We do not find these arguments convincing.

In addition, we found a state law from 2017 law that removes an exclusion from taxation under these taxes for, "a hospital that provides only psychiatric care or a hospital identified by the Department of Human Services as appropriate for inclusion in the application described in section 4, chapter 736, Oregon Laws 2003." We believe that the statement in

b(5)

The State of Oregon has stated that the facilities in question have never been included in these taxes.

Thank you. We look forward to hearing from you. If you would like to schedule a meeting to discuss please let us know.

As we mentioned:

b(5)

b(5)

b(6)

We appreciate any assistance that you may be able to provide.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

Message

From: Wiley, Evelyn (CMS/CMCS); [REDACTED] b(6)
[REDACTED] b(6)
Sent: 3/27/2023 2:47:03 PM
To: Howe, Rory (CMS/CMCS); [REDACTED] b(6)
[REDACTED] b(6) Maccarroll, Amber
[REDACTED] b(6)]; Silanskis, Jeremy
Subject: Looping for awareness FW: E&C Majority Inquiry - Hold Harmless

You all are available 11am – 12 pm. This will be a 30 minute meeting.

Evelyn Wiley

Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
410.786.8972 evelyn.wiley@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Sent: Monday, March 27, 2023 10:35 AM
To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Evelyn, we are now getting the same request—but from E&C minority. They would like to hold a briefing on Monday April 3rd or 4th. Can you offer times that work for Rory's schedule and we will try to get this one firmed up quickly?

From: Mauser, Gayle (CMS/OL)
Sent: Friday, March 24, 2023 12:46 PM
To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

You too!

From: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Sent: Friday, March 24, 2023 9:32 AM
To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Will do. Have a nice weekend!

Evelyn Wiley

Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)

Financial Management Group (FMG)
410.786.8972 evelyn.wiley@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Sent: Friday, March 24, 2023 9:01 AM
To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Evelyn, we can pull these times down now. I'll let you know if we end up needing other options for a later date.

Thanks!
Gayle

From: Mauser, Gayle (CMS/OL)
Sent: Wednesday, March 22, 2023 12:57 PM
To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

No confirmed time yet, unfortunately – but I will ping now. Thank you!

From: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Sent: Wednesday, March 22, 2023 12:56 PM
To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Gayle,

Have you heard which date and time is best for the committee staff?

3/27 2:30 pm – 3 pm, 4 pm – 4:30 pm
3/28 2 pm – 2:30 pm.

Evelyn Wiley

Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
410.786.8972 evelyn.wiley@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Wiley, Evelyn (CMS/CMCS)
Sent: Monday, March 20, 2023 10:54 AM
To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Gayle,

On 3/27 from 4 pm – 4:30 pm is also available.

3/27 2:30 pm – 3 pm

3/28 2 pm – 2:30 pm.

Evelyn Wiley

Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)

Financial Management Group (FMG)

410.786.8972 evelyn.wiley@cms.hhs.gov

7500 Security Blvd.

Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>

Sent: Monday, March 20, 2023 10:52 AM

To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>

Subject: RE: E&C Majority Inquiry - Hold Harmless

Thank you very much and will do.

From: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>

Sent: Monday, March 20, 2023 10:50 AM

To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>

Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Gayle,

I put a hold for the dates and times below. Please let me know once which one works best for the committee staff. Thanks.

3/27 2:30 pm – 3 pm

3/28 2 pm – 2:30 pm.

Evelyn Wiley

Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)

Financial Management Group (FMG)

410.786.8972 evelyn.wiley@cms.hhs.gov

7500 Security Blvd.

Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>

Sent: Monday, March 20, 2023 9:44 AM

To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>

Subject: RE: E&C Majority Inquiry - Hold Harmless

Thanks so much! This needs to be a time we offer to the Committee staff on the Hill, so if possible to give me a couple of options and to label the invites as HOLDS that would be great! This should be a relatively small call – it should be just Rory and maybe one member of his team if he would like someone on with him (plus me and Kate from OL).

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>

Sent: Monday, March 20, 2023 9:30 AM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>

Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi FMG team, lifting back up the talking points below for your review and clearance with leadership. Noting that we are assuming the call will be held by the 29th and thus did not update the talking points to reflect impending action in Missouri, which we understand is targeted for March 30.

Evelyn, can you help us identify some scheduling options (30 minutes) for the E&C majority staff call? If it's possible to have that call before the budget hearing on the 29th, that would be helpful.

Thanks,
Gayle

From: Mauser, Gayle (CMS/OL)

Sent: Monday, March 13, 2023 12:05 PM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>

Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi all, in addition to the follow-up we owe E&C majority staff, Rep. Al Green's (D-TX) office has inquired about the guidance and how it relates specifically to Texas. We would like to schedule a call between Rory and Rep. Green's office (it will be his Chief of Staff, but it is possible Rep. Green also joins). We'll provide draft Texas-specific talking points that build on the information provided below closer to the meeting.

In the interim, **Evelyn**, can you help us set up the following? If you can offer FMG availability, we will do our best to work around your schedules.

- 30 minutes to prep for the Al Green call, ideally in the couple of days prior to the actual briefing
- A few 30-minute holds that we can offer Rep. Green's office for the week of 3/27

Thanks!
Gayle

From: Mauser, Gayle (CMS/OL)

Sent: Friday, March 10, 2023 2:00 PM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS)

<Evelyn.Wiley@cms.hhs.gov>

Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi again FMG team,

We are following up on our prior discussion regarding the hold harmless question we received from E&C majority on what states have impermissible arrangements. Attention has been pulled away from this topic for a bit, but we expect that there will be renewed interest soon (and we've started to get some questions from a Texas member as well).

Below are draft talking points for a call with E&C majority, which include a few internal notes and a couple placeholders I am hoping you all can help fill in.

Rory, after FMG reviews these, I believe you were also going to run them by CMCS leadership. Looping Evelyn here to see if we can also hold some windows on your calendar to offer to Committee staff for this discussion – perhaps we aim for times within the next couple weeks? Committee staff haven't pinged us again yet, but we will let you know if they do.

Thanks,
Gayle

DRAFT Talking Points for E&C Majority Staff Call – Hold Harmless Guidance

- As you know, on February 17, 2023, CMS issued a Medicaid informational bulletin regarding health care-related taxes and hold harmless arrangements involving the redistribution of Medicaid payments.
- Hold harmless arrangements, as defined in the Medicaid statute, are arrangements in which the State or another unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax. The statute prohibits these arrangements.
- Recently, we have been approached by several states with questions about complying with this provision of law, and we have also learned of states that may have existing arrangements or are considering establishing them, particularly with respect to states establishing or renewing Medicaid managed care state directed payments.
- The informational bulletin reiterates the federal requirements concerning hold harmless arrangements with respect to health care-related taxes. We hope that this guidance provides additional clarity to states, and we also encourage them to raise any questions or concerns they may have about the permissibility of health care-related taxes to CMS as early in the process as possible, to avoid any issues.
- Regarding your question about which states may have these types of arrangements, there are 3 states that CMS understands may have impermissible hold harmless arrangements, and 1 state we wanted to mention as an example of where we were able to intervene early in the process of establishing what may have been an impermissible hold harmless arrangement.
- Starting with the 3 states that may have these arrangements:
 - **Texas:**
 - Texas has in place what is known as the Local Provider Payment Fund or LPPF. Based on information obtained by CMS, including limited information provided by the state and publicly available third-party materials, the LPPF arrangements used by some localities in Texas appear to include hold harmless arrangements because the localities impose a tax and the state directly or indirectly provides for payments that guarantee to hold the taxpayers harmless for all or any portion of the tax amount. If our understanding of those LPPF arrangements is correct, they constitute hold harmless arrangements that are prohibited under the Medicaid statute and CMS regulations. [this language is pulled from the publicly available November 2021 [letter](#) to the State; page 5 includes additional detail regarding our understanding of the arrangement]
 - CMS has communicated these concerns to the state and, when we recently approved Texas' state directed payments, we included in our approval letter that approval of the state directed payments does not constitute any specific Medicaid financing mechanism used to support the

non-federal share of the provider payment arrangement. We also clarified that we reserve the authority to enforce requirements, including by initiating separate deferrals and/or disallowances of federal financial participation.

- As you may be aware, the HHS OIG announced in November 2021 that it is examining states' use of LPPFs as the state share of Medicaid payments, and that it expects to issue a report in FY 2023 that indicates whether the LPPFs the state agency used were permissible. [for internal awareness, the OIG work plan does not specifically name Texas]
- **Florida:**
 - Similarly, Florida has in place an LPPF that we also understand includes hold harmless arrangements. [the attached FMR engagement letter includes additional detail regarding our understanding of the arrangement]
 - In Florida's case, we were working with the state for some time in an effort to address the concerns, but have been unable to resolve them. Like Texas, we communicated our concerns to the state and, when we recently approved Florida's state directed payments, we provided the same information as was included in the letter to Texas—that the approval does not constitute approval of the Medicaid financing mechanism, and that we reserve the authority to enforce requirements.
 - In late February, we sent a letter to Florida initiating a Financial Management Review (FMR) to examine the state Medicaid agency's compliance with federal requirements over the next several months.
- **Missouri:**
 - Lastly, Missouri has a longstanding arrangement called the Federal Reimbursement Allowance tax program that appears to include a hold harmless arrangement, and in 2020, CMS engaged the state about its concerns. Also in 2020, the then CMCS Director sent a letter to the state describing our concerns and memorializing a conversation with state Medicaid agency leadership who at that time committed to ending the hold harmless arrangement by X timeframe.
 - While the state has not done that, state leadership has been willing to respond to CMS' questions. In late February, we also sent a letter to Missouri—but, based on our ability to obtain more information from Missouri, we have initiated a focused review of Missouri's program expenditures reported to CMS on the Form CMS-64, rather than an FMR. [the attached CMS-64 review letter includes some additional information]
- With respect to the state I mentioned where we were successful in intervening early:
 - **Louisiana:**
 - In X month and year, we received information that suggested Louisiana's legislature was developing what would have been a hold harmless arrangement as part of the financing mechanism for its state directed payment program. We engaged the state about those issues, worked with the state on alternatives that would comply with federal law, and ultimately the state withdrew the state directed payment proposal it had submitted and submitted a modified proposal.
- We are hopeful that the guidance we issued will further promote our efforts to work with states and get ahead of these issues as we did in Louisiana.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Sent: Tuesday, February 21, 2023 2:37 PM

To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>

Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Gayle,

A call sounds right to me. Please also include Jeremy, Amber, and Charlie in the discussion. For awareness, tomorrow, FMG is planning to issue a letter to Florida and a question set to Missouri on this issue. Both states appear to have concerning arrangements in place and the letter/question set tomorrow are part of our work to address the arrangements. Let me know if you have any questions in the interim.

Thanks,
Rory

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Sent: Tuesday, February 21, 2023 1:57 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Subject: E&C Majority Inquiry - Hold Harmless

Hi Rory,

After Friday's hold harmless CIB went out, we received an inquiry from House E&C majority staff asking for more information—in particular, about the language from the list serv notice indicating “recently, CMS became aware that some health care-related tax programs appear to involve agreements among providers to redistribute their Medicaid payments to hold taxpayers harmless for the cost of the tax.”

Specifically, the staff would like to know about the instances CMS has found, and the steps the agency is taking to address those agreements.

I imagine it will be most efficient to have a quick call to discuss actions to date, anticipated upcoming actions, and next steps for responding to the Hill—does that work for you? Are there others who should be included?

Thanks,
Gayle

Gayle Mauser
(she/her)
Low Income Programs Analysis Group
Office of Legislation
Centers for Medicare & Medicaid Services (CMS)
Cell Phone: b(6)

Message

From: Maccarroll, Amber (CMS/CMCS); [REDACTED] b(6)
[REDACTED] b(6)
Sent: 3/27/2023 2:49:03 PM
To: Wiley, Evelyn (CMS/CMCS); [REDACTED] b(6)
[REDACTED] b(6) Howe, Rory
[REDACTED] b(6) Silanskis, Jeremy
Subject: RE: RE: Looping for awareness FW: E&C Majority Inquiry - Hold Harmless

Hi Evelyn –

Do you mean we are available on Tuesday, 4/4 btwn 11-12? None of us are available on Monday, 4/3 btwn 11-12.

Thanks, Amber

From: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Sent: Monday, March 27, 2023 10:47 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: Looping for awareness FW: E&C Majority Inquiry - Hold Harmless

You all are available 11am – 12 pm. This will be a 30 minute meeting.

Evelyn Wiley

Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
410.786.8972 evelyn.wiley@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Sent: Monday, March 27, 2023 10:35 AM
To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Evelyn, we are now getting the same request—but from E&C minority. They would like to hold a briefing on Monday April 3rd or 4th. Can you offer times that work for Rory's schedule and we will try to get this one firmed up quickly?

From: Mauser, Gayle (CMS/OL)
Sent: Friday, March 24, 2023 12:46 PM
To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

You too!

From: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Sent: Friday, March 24, 2023 9:32 AM
To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Will do. Have a nice weekend!

Evelyn Wiley

Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
410.786.8972 evelyn.wiley@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Sent: Friday, March 24, 2023 9:01 AM
To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Evelyn, we can pull these times down now. I'll let you know if we end up needing other options for a later date.

Thanks!
Gayle

From: Mauser, Gayle (CMS/OL)
Sent: Wednesday, March 22, 2023 12:57 PM
To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

No confirmed time yet, unfortunately – but I will ping now. Thank you!

From: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Sent: Wednesday, March 22, 2023 12:56 PM
To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Gayle,

Have you heard which date and time is best for the committee staff?

3/27 2:30 pm – 3 pm, 4 pm – 4:30 pm
3/28 2 pm – 2:30 pm.

Evelyn Wiley

Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)

410.786.8972 evelyn.wiley@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Wiley, Evelyn (CMS/CMCS)
Sent: Monday, March 20, 2023 10:54 AM
To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Gayle,

On 3/27 from 4 pm – 4:30 pm is also available.

3/27 2:30 pm – 3 pm

3/28 2 pm – 2:30 pm.

Evelyn Wiley

Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
410.786.8972 evelyn.wiley@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Sent: Monday, March 20, 2023 10:52 AM
To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Thank you very much and will do.

From: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Sent: Monday, March 20, 2023 10:50 AM
To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Gayle,

I put a hold for the dates and times below. Please let me know once which one works best for the committee staff. Thanks.

3/27 2:30 pm – 3 pm

3/28 2 pm – 2:30 pm.

Evelyn Wiley

Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
410.786.8972 evelyn.wiley@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Sent: Monday, March 20, 2023 9:44 AM
To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Thanks so much! This needs to be a time we offer to the Committee staff on the Hill, so if possible to give me a couple of options and to label the invites as HOLDS that would be great! This should be a relatively small call – it should be just Rory and maybe one member of his team if he would like someone on with him (plus me and Kate from OL).

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Sent: Monday, March 20, 2023 9:30 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi FMG team, lifting back up the talking points below for your review and clearance with leadership. Noting that we are assuming the call will be held by the 29th and thus did not update the talking points to reflect impending action in Missouri, which we understand is targeted for March 30.

Evelyn, can you help us identify some scheduling options (30 minutes) for the E&C majority staff call? If it's possible to have that call before the budget hearing on the 29th, that would be helpful.

Thanks,
Gayle

From: Mauser, Gayle (CMS/OL)
Sent: Monday, March 13, 2023 12:05 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi all, in addition to the follow-up we owe E&C majority staff, Rep. Al Green's (D-TX) office has inquired about the guidance and how it relates specifically to Texas. We would like to schedule a call between Rory and Rep. Green's office (it will be his Chief of Staff, but it is possible Rep. Green also joins). We'll provide draft Texas-specific talking points that build on the information provided below closer to the meeting.

In the interim, **Evelyn**, can you help us set up the following? If you can offer FMG availability, we will do our best to work around your schedules.

- 30 minutes to prep for the Al Green call, ideally in the couple of days prior to the actual briefing

- A few 30-minute holds that we can offer Rep. Green's office for the week of 3/27

Thanks!
Gayle

From: Mauser, Gayle (CMS/OL)
Sent: Friday, March 10, 2023 2:00 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi again FMG team,

We are following up on our prior discussion regarding the hold harmless question we received from E&C majority on what states have impermissible arrangements. Attention has been pulled away from this topic for a bit, but we expect that there will be renewed interest soon (and we've started to get some questions from a Texas member as well).

Below are draft talking points for a call with E&C majority, which include a few internal notes and a couple placeholders I am hoping you all can help fill in.

Rory, after FMG reviews these, I believe you were also going to run them by CMCS leadership. Looping Evelyn here to see if we can also hold some windows on your calendar to offer to Committee staff for this discussion – perhaps we aim for times within the next couple weeks? Committee staff haven't pinged us again yet, but we will let you know if they do.

Thanks,
Gayle

DRAFT Talking Points for E&C Majority Staff Call – Hold Harmless Guidance

- As you know, on February 17, 2023, CMS issued a Medicaid informational bulletin regarding health care-related taxes and hold harmless arrangements involving the redistribution of Medicaid payments.
- Hold harmless arrangements, as defined in the Medicaid statute, are arrangements in which the State or another unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax. The statute prohibits these arrangements.
- Recently, we have been approached by several states with questions about complying with this provision of law, and we have also learned of states that may have existing arrangements or are considering establishing them, particularly with respect to states establishing or renewing Medicaid managed care state directed payments.
- The informational bulletin reiterates the federal requirements concerning hold harmless arrangements with respect to health care-related taxes. We hope that this guidance provides additional clarity to states, and we also encourage them to raise any questions or concerns they may have about the permissibility of health care-related taxes to CMS as early in the process as possible, to avoid any issues.
- Regarding your question about which states may have these types of arrangements, there are 3 states that CMS understands may have impermissible hold harmless arrangements, and 1 state we wanted to mention as an example of where we were able to intervene early in the process of establishing what may have been an impermissible hold harmless arrangement.
- Starting with the 3 states that may have these arrangements:
 - **Texas:**

- Texas has in place what is known as the Local Provider Payment Fund or LPPF. Based on information obtained by CMS, including limited information provided by the state and publicly available third-party materials, the LPPF arrangements used by some localities in Texas appear to include hold harmless arrangements because the localities impose a tax and the state directly or indirectly provides for payments that guarantee to hold the taxpayers harmless for all or any portion of the tax amount. If our understanding of those LPPF arrangements is correct, they constitute hold harmless arrangements that are prohibited under the Medicaid statute and CMS regulations. [this language is pulled from the publicly available November 2021 [letter](#) to the State; page 5 includes additional detail regarding our understanding of the arrangement]
 - CMS has communicated these concerns to the state and, when we recently approved Texas' state directed payments, we included in our approval letter that approval of the state directed payments does not constitute any specific Medicaid financing mechanism used to support the non-federal share of the provider payment arrangement. We also clarified that we reserve the authority to enforce requirements, including by initiating separate deferrals and/or disallowances of federal financial participation.
 - As you may be aware, the HHS OIG [announced](#) in November 2021 that it is examining states' use of LPPFs as the state share of Medicaid payments, and that it expects to issue a report in FY 2023 that indicates whether the LPPFs the state agency used were permissible. [for internal awareness, the OIG work plan does not specifically name Texas]
 - **Florida:**
 - Similarly, Florida has in place an LPPF that we also understand includes hold harmless arrangements. [the attached FMR engagement letter includes additional detail regarding our understanding of the arrangement]
 - In Florida's case, we were working with the state for some time in an effort to address the concerns, but have been unable to resolve them. Like Texas, we communicated our concerns to the state and, when we recently approved Florida's state directed payments, we provided the same information as was included in the letter to Texas—that the approval does not constitute approval of the Medicaid financing mechanism, and that we reserve the authority to enforce requirements.
 - In late February, we sent a letter to Florida initiating a Financial Management Review (FMR) to examine the state Medicaid agency's compliance with federal requirements over the next several months.
 - **Missouri:**
 - Lastly, Missouri has a longstanding arrangement called the Federal Reimbursement Allowance tax program that appears to include a hold harmless arrangement, and in 2020, CMS engaged the state about its concerns. Also in 2020, the then CMCS Director sent a letter to the state describing our concerns and memorializing a conversation with state Medicaid agency leadership who at that time committed to ending the hold harmless arrangement by X timeframe.
 - While the state has not done that, state leadership has been willing to respond to CMS' questions. In late February, we also sent a letter to Missouri—but, based on our ability to obtain more information from Missouri, we have initiated a focused review of Missouri's program expenditures reported to CMS on the Form CMS-64, rather than an FMR. [the attached CMS-64 review letter includes some additional information]
- With respect to the state I mentioned where we were successful in intervening early:
 - **Louisiana:**
 - In X month and year, we received information that suggested Louisiana's legislature was developing what would have been a hold harmless arrangement as part of the financing mechanism for its state directed payment program. We engaged the state about those issues, worked with the state on alternatives that would comply with federal law, and ultimately the state withdrew the state directed payment proposal it had submitted and submitted a modified proposal.

- We are hopeful that the guidance we issued will further promote our efforts to work with states and get ahead of these issues as we did in Louisiana.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Sent: Tuesday, February 21, 2023 2:37 PM

To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>

Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Gayle,

A call sounds right to me. Please also include Jeremy, Amber, and Charlie in the discussion. For awareness, tomorrow, FMG is planning to issue a letter to Florida and a question set to Missouri on this issue. Both states appear to have concerning arrangements in place and the letter/question set tomorrow are part of our work to address the arrangements. Let me know if you have any questions in the interim.

Thanks,
Rory

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>

Sent: Tuesday, February 21, 2023 1:57 PM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>

Subject: E&C Majority Inquiry - Hold Harmless

Hi Rory,

After Friday's hold harmless CIB went out, we received an inquiry from House E&C majority staff asking for more information—in particular, about the language from the list serv notice indicating “recently, CMS became aware that some health care-related tax programs appear to involve agreements among providers to redistribute their Medicaid payments to hold taxpayers harmless for the cost of the tax.”

Specifically, the staff would like to know about the instances CMS has found, and the steps the agency is taking to address those agreements.

I imagine it will be most efficient to have a quick call to discuss actions to date, anticipated upcoming actions, and next steps for responding to the Hill—does that work for you? Are there others who should be included?

Thanks,
Gayle

Gayle Mauser

(she/her)

Low Income Programs Analysis Group

Office of Legislation

Centers for Medicare & Medicaid Services (CMS)

Cell Phone: b(6)

Message

From: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>; Howe, Rory
<Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy
<Jeremy.Silanskis@cms.hhs.gov>
Sent: 3/27/2023 2:49:53 PM
To: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: RE: RE: Looping for awareness FW: E&C Majority Inquiry - Hold Harmless

Sorry, that is correct, 4/4.

Evelyn Wiley

Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
410.786.8972 evelyn.wiley@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Sent: Monday, March 27, 2023 10:49 AM
To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>;
Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: RE: Looping for awareness FW: E&C Majority Inquiry - Hold Harmless

Hi Evelyn –

Do you mean we are available on Tuesday, 4/4 btwn 11-12? None of us are available on Monday, 4/3 btwn 11-12.

Thanks, Amber

From: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Sent: Monday, March 27, 2023 10:47 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS)
<Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: Looping for awareness FW: E&C Majority Inquiry - Hold Harmless

You all are available 11 am – 12 pm. This will be a 30 minute meeting.

Evelyn Wiley

Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
410.786.8972 evelyn.wiley@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Sent: Monday, March 27, 2023 10:35 AM
To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Evelyn, we are now getting the same request—but from E&C minority. They would like to hold a briefing on Monday April 3rd or 4th. Can you offer times that work for Rory's schedule and we will try to get this one firmed up quickly?

From: Mauser, Gayle (CMS/OL)
Sent: Friday, March 24, 2023 12:46 PM
To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

You too!

From: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Sent: Friday, March 24, 2023 9:32 AM
To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Will do. Have a nice weekend!

Evelyn Wiley

Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
410.786.8972 evelyn.wiley@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Sent: Friday, March 24, 2023 9:01 AM
To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Evelyn, we can pull these times down now. I'll let you know if we end up needing other options for a later date.

Thanks!
Gayle

From: Mauser, Gayle (CMS/OL)
Sent: Wednesday, March 22, 2023 12:57 PM
To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

No confirmed time yet, unfortunately – but I will ping now. Thank you!

From: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Sent: Wednesday, March 22, 2023 12:56 PM
To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Gayle,

Have you heard which date and time is best for the committee staff?

3/27 2:30 pm – 3 pm, 4 pm – 4:30 pm
3/28 2 pm – 2:30 pm.

Evelyn Wiley

Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
410.786.8972 evelyn.wiley@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Wiley, Evelyn (CMS/CMCS)
Sent: Monday, March 20, 2023 10:54 AM
To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Gayle,

On 3/27 from 4 pm – 4:30 pm is also available.

3/27 2:30 pm – 3 pm
3/28 2 pm – 2:30 pm.

Evelyn Wiley

Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
410.786.8972 evelyn.wiley@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Sent: Monday, March 20, 2023 10:52 AM
To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Thank you very much and will do.

From: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Sent: Monday, March 20, 2023 10:50 AM
To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Gayle,

I put a hold for the dates and times below. Please let me know once which one works best for the committee staff. Thanks.

3/27 2:30 pm – 3 pm
3/28 2 pm – 2:30 pm.

Evelyn Wiley

Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
410.786.8972 evelyn.wiley@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Sent: Monday, March 20, 2023 9:44 AM
To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Thanks so much! This needs to be a time we offer to the Committee staff on the Hill, so if possible to give me a couple of options and to label the invites as HOLDS that would be great! This should be a relatively small call – it should be just Rory and maybe one member of his team if he would like someone on with him (plus me and Kate from OL).

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Sent: Monday, March 20, 2023 9:30 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi FMG team, lifting back up the talking points below for your review and clearance with leadership. Noting that we are assuming the call will be held by the 29th and thus did not update the talking points to reflect impending action in Missouri, which we understand is targeted for March 30.

Evelyn, can you help us identify some scheduling options (30 minutes) for the E&C majority staff call? If it's possible to have that call before the budget hearing on the 29th, that would be helpful.

Thanks,
Gayle

From: Mauser, Gayle (CMS/OL)
Sent: Monday, March 13, 2023 12:05 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi all, in addition to the follow-up we owe E&C majority staff, Rep. Al Green's (D-TX) office has inquired about the guidance and how it relates specifically to Texas. We would like to schedule a call between Rory and Rep. Green's office (it will be his Chief of Staff, but it is possible Rep. Green also joins). We'll provide draft Texas-specific talking points that build on the information provided below closer to the meeting.

In the interim, **Evelyn**, can you help us set up the following? If you can offer FMG availability, we will do our best to work around your schedules.

- 30 minutes to prep for the Al Green call, ideally in the couple of days prior to the actual briefing
- A few 30-minute holds that we can offer Rep. Green's office for the week of 3/27

Thanks!
Gayle

From: Mauser, Gayle (CMS/OL)
Sent: Friday, March 10, 2023 2:00 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi again FMG team,

We are following up on our prior discussion regarding the hold harmless question we received from E&C majority on what states have impermissible arrangements. Attention has been pulled away from this topic for a bit, but we expect that there will be renewed interest soon (and we've started to get some questions from a Texas member as well).

Below are draft talking points for a call with E&C majority, which include a few internal notes and a couple placeholders I am hoping you all can help fill in.

Rory, after FMG reviews these, I believe you were also going to run them by CMCS leadership. Looping Evelyn here to see if we can also hold some windows on your calendar to offer to Committee staff for this discussion – perhaps we aim for times within the next couple weeks? Committee staff haven't pinged us again yet, but we will let you know if they do.

Thanks,
Gayle

DRAFT Talking Points for E&C Majority Staff Call – Hold Harmless Guidance

- As you know, on February 17, 2023, CMS issued a Medicaid informational bulletin regarding health care-related taxes and hold harmless arrangements involving the redistribution of Medicaid payments.
- Hold harmless arrangements, as defined in the Medicaid statute, are arrangements in which the State or another unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax. The statute prohibits these arrangements.
- Recently, we have been approached by several states with questions about complying with this provision of law, and we have also learned of states that may have existing arrangements or are considering establishing them, particularly with respect to states establishing or renewing Medicaid managed care state directed payments.
- The informational bulletin reiterates the federal requirements concerning hold harmless arrangements with respect to health care-related taxes. We hope that this guidance provides additional clarity to states, and we also encourage them to raise any questions or concerns they may have about the permissibility of health care-related taxes to CMS as early in the process as possible, to avoid any issues.
- Regarding your question about which states may have these types of arrangements, there are 3 states that CMS understands may have impermissible hold harmless arrangements, and 1 state we wanted to mention as an example of where we were able to intervene early in the process of establishing what may have been an impermissible hold harmless arrangement.
- Starting with the 3 states that may have these arrangements:
 - **Texas:**
 - Texas has in place what is known as the Local Provider Payment Fund or LPPF. Based on information obtained by CMS, including limited information provided by the state and publicly available third-party materials, the LPPF arrangements used by some localities in Texas appear to include hold harmless arrangements because the localities impose a tax and the state directly or indirectly provides for payments that guarantee to hold the taxpayers harmless for all or any portion of the tax amount. If our understanding of those LPPF arrangements is correct, they constitute hold harmless arrangements that are prohibited under the Medicaid statute and CMS regulations. [this language is pulled from the publicly available November 2021 [letter](#) to the State; page 5 includes additional detail regarding our understanding of the arrangement]
 - CMS has communicated these concerns to the state and, when we recently approved Texas' state directed payments, we included in our approval letter that approval of the state directed payments does not constitute any specific Medicaid financing mechanism used to support the non-federal share of the provider payment arrangement. We also clarified that we reserve the authority to enforce requirements, including by initiating separate deferrals and/or disallowances of federal financial participation.
 - As you may be aware, the HHS OIG [announced](#) in November 2021 that it is examining states' use of LPPFs as the state share of Medicaid payments, and that it expects to issue a report in FY 2023 that indicates whether the LPPFs the state agency used were permissible. [for internal awareness, the OIG work plan does not specifically name Texas]
 - **Florida:**
 - Similarly, Florida has in place an LPPF that we also understand includes hold harmless arrangements. [the attached FMR engagement letter includes additional detail regarding our understanding of the arrangement]
 - In Florida's case, we were working with the state for some time in an effort to address the concerns, but have been unable to resolve them. Like Texas, we communicated our concerns to the state and, when we recently approved Florida's state directed payments, we provided the same information as was included in the letter to Texas—that the approval does not constitute approval of the Medicaid financing mechanism, and that we reserve the authority to enforce requirements.
 - In late February, we sent a letter to Florida initiating a Financial Management Review (FMR) to examine the state Medicaid agency's compliance with federal requirements over the next several months.
 - **Missouri:**

- Lastly, Missouri has a longstanding arrangement called the Federal Reimbursement Allowance tax program that appears to include a hold harmless arrangement, and in 2020, CMS engaged the state about its concerns. Also in 2020, the then CMCS Director sent a letter to the state describing our concerns and memorializing a conversation with state Medicaid agency leadership who at that time committed to ending the hold harmless arrangement by X timeframe.
- While the state has not done that, state leadership has been willing to respond to CMS' questions. In late February, we also sent a letter to Missouri—but, based on our ability to obtain more information from Missouri, we have initiated a focused review of Missouri's program expenditures reported to CMS on the Form CMS-64, rather than an FMR. [the attached CMS-64 review letter includes some additional information]
- With respect to the state I mentioned where we were successful in intervening early:
 - **Louisiana:**
 - In X month and year, we received information that suggested Louisiana's legislature was developing what would have been a hold harmless arrangement as part of the financing mechanism for its state directed payment program. We engaged the state about those issues, worked with the state on alternatives that would comply with federal law, and ultimately the state withdrew the state directed payment proposal it had submitted and submitted a modified proposal.
- We are hopeful that the guidance we issued will further promote our efforts to work with states and get ahead of these issues as we did in Louisiana.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Sent: Tuesday, February 21, 2023 2:37 PM

To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>

Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Gayle,

A call sounds right to me. Please also include Jeremy, Amber, and Charlie in the discussion. For awareness, tomorrow, FMG is planning to issue a letter to Florida and a question set to Missouri on this issue. Both states appear to have concerning arrangements in place and the letter/question set tomorrow are part of our work to address the arrangements. Let me know if you have any questions in the interim.

Thanks,
Rory

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>

Sent: Tuesday, February 21, 2023 1:57 PM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>

Subject: E&C Majority Inquiry - Hold Harmless

Hi Rory,

After Friday's hold harmless CIB went out, we received an inquiry from House E&C majority staff asking for more information—in particular, about the language from the list serv notice indicating “recently, CMS became aware that some health care-related tax programs appear to involve agreements among providers to redistribute their Medicaid payments to hold taxpayers harmless for the cost of the tax.”

Specifically, the staff would like to know about the instances CMS has found, and the steps the agency is taking to address those agreements.

I imagine it will be most efficient to have a quick call to discuss actions to date, anticipated upcoming actions, and next steps for responding to the Hill—does that work for you? Are there others who should be included?

Thanks,
Gayle

Gayle Mauser

(she/her)

Low Income Programs Analysis Group

Office of Legislation

Centers for Medicare & Medicaid Services (CMS)

Cell Phone: b(6)

Message

From: Mauser, Gayle (CMS/OL) [b(6)]
[b(6)]
Sent: 3/27/2023 4:19:57 PM
To: Howe, Rory (CMS/CMCS) [b(6)]
[b(6)]
lanskis, Jeremy
Maccarroll, Amber
Arnold, Charlie
Boston, Beverly
CC: Kirchgraber, Kate (CMS/OL) [b(6)]
[b(6)]
Wiley, Evelyn
Subject: Upcoming Hold Harmless Briefings

Hi all, apologies for so many emails, but flagging that E&C minority staff have also now asked for a briefing. This addition means we have the following order of events lined up for this week and next. We haven't heard from E&C majority again but may be adding them back to the list soon (TBD).

Thanks,
Gayle

Order of Events:

- Tuesday 3/28 – internal prep for briefing with Rep. Green's (TX) office on how the hold harmless letter relates to Texas (**Draft talking points below; FMG reviewing/seeking CMCS OCD clearance**). We will also plan to use this time to ensure we're all on the same page regarding the bullets that follow.
- Wednesday 3/29 – call with Rep. Green's (TX) office
- Thursday, 3/30 – issuance of Missouri deferral; OL will notify authorizing committee staff and the Missouri delegation (**OL drafting QAs we expect from the Hill**)
- Tuesday, 4/4 – briefing with E&C minority staff on the hold harmless guidance more generally, what states may have hold harmless arrangements, etc.

Draft Talking Points for Rep. Green Call (3/29)

- We know you are interested in particular on Texas, but we thought it might be helpful to first provide some general context about the guidance you asked about:
 - As you know, on February 17, 2023, CMS issued a Medicaid informational bulletin regarding health care-related taxes and hold harmless arrangements involving the redistribution of Medicaid payments.
 - Hold harmless arrangements, as defined in the Medicaid statute, are arrangements in which the State or another unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax. The statute prohibits these arrangements.
 - Recently, we have been approached by several states with questions about complying with this provision of law, and we have also learned of states that may have existing arrangements or are considering establishing them, particularly with respect to states establishing or renewing Medicaid managed care state directed payments.
 - The informational bulletin reiterates the federal requirements concerning hold harmless arrangements with respect to health care-related taxes. We hope that this guidance provides additional clarity to

states, and we also encourage them to raise any questions or concerns they may have about the permissibility of health care-related taxes to CMS as early in the process as possible, to avoid any issues.

- With respect to Texas specifically:
 - As you know, Texas has in place what is known as the Local Provider Payment Fund or LPPF. Based on information obtained by CMS, including limited information provided by the state and publicly available third-party materials, the LPPF arrangements used by some localities in Texas appear to include hold harmless arrangements because the localities impose a tax and the state directly or indirectly provides for payments that guarantee to hold the taxpayers harmless for all or any portion of the tax amount. If our understanding of those LPPF arrangements is correct, they constitute hold harmless arrangements that are prohibited under the Medicaid statute and CMS regulations. [this language is pulled from the publicly available November 2021 letter to the State; page 5 includes additional detail regarding our understanding of the arrangement]
 - CMS has communicated these concerns to the state and, when we recently approved Texas' state directed payments, we included in our approval letter that approval of the state directed payments does not constitute any specific Medicaid financing mechanism used to support the non-federal share of the provider payment arrangement. We also clarified that we reserve the authority to enforce requirements, including by initiating separate deferrals and/or disallowances of federal financial participation.
 - As you may be aware, the HHS OIG announced in November 2021 that it is examining states' use of LPPFs as the state share of Medicaid payments, and that it expects to issue a report in FY 2023 that indicates whether the LPPFs the state agency used were permissible. [for internal awareness, the OIG work plan does not specifically name Texas]
- As is the case with any state, if CMS or an oversight agency discovers the existence of impermissible financing practices related to health care related taxes, CMS will take enforcement action as necessary.

Draft Talking Points for E&C Minority Call (4/4)

- As you know, on February 17, 2023, CMS issued a Medicaid informational bulletin regarding health care-related taxes and hold harmless arrangements involving the redistribution of Medicaid payments.
- Hold harmless arrangements, as defined in the Medicaid statute, are arrangements in which the State or another unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax. The statute prohibits these arrangements.
- This is not new policy or, as I understand is circulating, a revival of MFAR. Unlike MFAR, which was proposed rulemaking to change Medicaid regulations relating to multiple aspects of Medicaid financing, the guidance we issued in February reiterates existing requirements under current law and regulations. [E&C minority staff noted that the letter is being called the "MFAR letter"]
- Recently, we have been approached by several states with questions about complying with this provision of law, and we have also learned of states that may have existing arrangements or are considering establishing them, particularly with respect to states establishing or renewing Medicaid managed care state directed payments.
- We hope that this guidance provides additional clarity to states, and we also encourage them to raise any questions or concerns they may have about the permissibility of health care-related taxes to CMS as early in the process as possible, to avoid any issues.
- Regarding your question about which states may have these types of arrangements, there are 3 states that CMS understands may have impermissible hold harmless arrangements, and 1 state we wanted to mention as an example of where we were able to intervene early in the process of establishing what may have been an impermissible hold harmless arrangement.
- Starting with the 3 states that may have these arrangements:
 - **Texas:**
 - Texas has in place what is known as the Local Provider Payment Fund or LPPF. Based on information obtained by CMS, including limited information provided by the state and publicly available third-party materials, the LPPF arrangements used by some localities in Texas appear to include hold harmless arrangements because the localities impose a tax and the state directly or indirectly provides for payments that guarantee to hold the taxpayers harmless for all or any

portion of the tax amount. If our understanding of those LPPF arrangements is correct, they constitute hold harmless arrangements that are prohibited under the Medicaid statute and CMS regulations. [this language is pulled from the publicly available November 2021 [letter](#) to the State; page 5 includes additional detail regarding our understanding of the arrangement]

- CMS has communicated these concerns to the state and, when we recently approved Texas' state directed payments, we included in our approval letter that approval of the state directed payments does not constitute any specific Medicaid financing mechanism used to support the non-federal share of the provider payment arrangement. We also clarified that we reserve the authority to enforce requirements, including by initiating separate deferrals and/or disallowances of federal financial participation.
- As you may be aware, the HHS OIG [announced](#) in November 2021 that it is examining states' use of LPPFs as the state share of Medicaid payments, and that it expects to issue a report in FY 2023 that indicates whether the LPPFs the state agency used were permissible. [for internal awareness, the OIG work plan does not specifically name Texas]
- **Florida:**
 - Similarly, Florida has in place an LPPF that we also understand includes hold harmless arrangements.
 - In Florida's case, we were working with the state for some time in an effort to address the concerns, but have been unable to resolve them. Like Texas, we communicated our concerns to the state and, when we recently approved Florida's state directed payments, we provided the same information as was included in the letter to Texas—that the approval does not constitute approval of the Medicaid financing mechanism, and that we reserve the authority to enforce requirements.
 - In late February, we sent a letter to Florida initiating a Financial Management Review (FMR) to examine the state Medicaid agency's compliance with federal requirements over the next several months.
- **Missouri:**
 - As you know, we took deferral action in Missouri last week.
 - Missouri has a longstanding arrangement called the Federal Reimbursement Allowance tax program that appears to include a hold harmless arrangement, and in 2019, we became aware of details of the arrangement that outlined hold harmless aspects. In 2020, CMS engaged the state about its concerns. Also in 2020, the then CMCS Director sent a letter to the state describing our concerns and memorializing a conversation with state Medicaid agency leadership who at that time committed to ending the hold harmless arrangement by June 30, 2021.
 - Contrary to its commitment documented in the July 28, 2020 letter, the state recently informed CMS that it does not intend to end its pooling arrangement.
 - In late February, we sent a letter to Missouri initiating a focused review of Missouri's program expenditures reported to CMS on the Form CMS-64, and as part of the review of the CMS-64 for the December 31, 2022 quarter, on February 17, 2023, we sent the state some questions to confirm our understanding of the Missouri FRA program and pooling arrangement. On March 10, 2023, the state responded to CMS with responses that supported our continued concerns regarding the tax and, last week, we issued a deferral.
 - *If asked about the size of the deferral:* The \$236.6 million dollar deferral represents the federal portion of the FRA tax collected by the state for the first quarter of 2023. The Medicaid statute (1903(w)(1)(A)(iii)) does not permit only deferring a portion of an unallowable tax. Importantly, though, the state could preserve its entire tax collection by ending the redistributions, which we understand involves only a portion of the FRA tax collected.
- With respect to the state I mentioned where we were successful in intervening early:
 - **Louisiana:**
 - In X month and year, we received information that suggested Louisiana's legislature was developing what would have been a hold harmless arrangement as part of the financing mechanism for its state directed payment program. We engaged the state about those issues,

worked with the state on alternatives that would comply with federal law, and ultimately the state withdrew the state directed payment proposal it had submitted and submitted a modified proposal.

- We are hopeful that the guidance we issued will further promote our efforts to work with states and get ahead of these issues as we did in Louisiana.

From: Mauser, Gayle (CMS/OL)

Sent: Friday, March 24, 2023 9:10 AM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>

Subject: RE: E&C Majority Inquiry - Hold Harmless

Good morning,

An update that we will not be meeting with E&C Committee staff early next week (TBD if that will still happen at a later time) but the briefing with Rep. Al Green's office regarding Texas is confirmed for Wednesday, with a prep call scheduled for Tuesday.

Below are updated talking points focused specifically on Texas.

I believe you all wanted to run these past OCD—can you let us know if you need anything from us on that front?

Thanks,
Gayle

DRAFT Talking Points for Briefing with Rep. Al Green's Office— Hold Harmless Guidance

- We know you are interested in particular on Texas, but we thought it might be helpful to first provide some general context about the guidance you asked about:
 - As you know, on February 17, 2023, CMS issued a Medicaid informational bulletin regarding health care-related taxes and hold harmless arrangements involving the redistribution of Medicaid payments.
 - Hold harmless arrangements, as defined in the Medicaid statute, are arrangements in which the State or another unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax. The statute prohibits these arrangements.
 - Recently, we have been approached by several states with questions about complying with this provision of law, and we have also learned of states that may have existing arrangements or are considering establishing them, particularly with respect to states establishing or renewing Medicaid managed care state directed payments.
 - The informational bulletin reiterates the federal requirements concerning hold harmless arrangements with respect to health care-related taxes. We hope that this guidance provides additional clarity to states, and we also encourage them to raise any questions or concerns they may have about the permissibility of health care-related taxes to CMS as early in the process as possible, to avoid any issues.
- With respect to Texas specifically:
 - As you know, Texas has in place what is known as the Local Provider Payment Fund or LPPF. Based on information obtained by CMS, including limited information provided by the state and publicly available third-party materials, the LPPF arrangements used by some localities in Texas appear to include hold harmless arrangements because the localities impose a tax and the state directly or indirectly provides for payments that guarantee to hold the taxpayers harmless for all or any portion of the tax amount. If

our understanding of those LPPF arrangements is correct, they constitute hold harmless arrangements that are prohibited under the Medicaid statute and CMS regulations. [this language is pulled from the publicly available November 2021 [letter](#) to the State; page 5 includes additional detail regarding our understanding of the arrangement]

- CMS has communicated these concerns to the state and, when we recently approved Texas' state directed payments, we included in our approval letter that approval of the state directed payments does not constitute any specific Medicaid financing mechanism used to support the non-federal share of the provider payment arrangement. We also clarified that we reserve the authority to enforce requirements, including by initiating separate deferrals and/or disallowances of federal financial participation.
- As you may be aware, the HHS OIG [announced](#) in November 2021 that it is examining states' use of LPPFs as the state share of Medicaid payments, and that it expects to issue a report in FY 2023 that indicates whether the LPPFs the state agency used were permissible. [for internal awareness, the OIG work plan does not specifically name Texas]
- As is the case with any state, if CMS or an oversight agency discovers the existence of impermissible financing practices related to health care related taxes, CMS will take enforcement action as necessary.

From: Mauser, Gayle (CMS/OL)

Sent: Monday, March 20, 2023 9:30 AM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>

Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi FMG team, lifting back up the talking points below for your review and clearance with leadership. Noting that we are assuming the call will be held by the 29th and thus did not update the talking points to reflect impending action in Missouri, which we understand is targeted for March 30.

Evelyn, can you help us identify some scheduling options (30 minutes) for the E&C majority staff call? If it's possible to have that call before the budget hearing on the 29th, that would be helpful.

Thanks,
Gayle

From: Mauser, Gayle (CMS/OL)

Sent: Monday, March 13, 2023 12:05 PM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>

Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi all, in addition to the follow-up we owe E&C majority staff, Rep. Al Green's (D-TX) office has inquired about the guidance and how it relates specifically to Texas. We would like to schedule a call between Rory and Rep. Green's office (it will be his Chief of Staff, but it is possible Rep. Green also joins). We'll provide draft Texas-specific talking points that build on the information provided below closer to the meeting.

In the interim, **Evelyn**, can you help us set up the following? If you can offer FMG availability, we will do our best to work around your schedules.

- 30 minutes to prep for the AI Green call, ideally in the couple of days prior to the actual briefing
- A few 30-minute holds that we can offer Rep. Green's office for the week of 3/27

Thanks!
Gayle

From: Mauser, Gayle (CMS/OL)

Sent: Friday, March 10, 2023 2:00 PM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>

Cc: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>

Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi again FMG team,

We are following up on our prior discussion regarding the hold harmless question we received from E&C majority on what states have impermissible arrangements. Attention has been pulled away from this topic for a bit, but we expect that there will be renewed interest soon (and we've started to get some questions from a Texas member as well).

Below are draft talking points for a call with E&C majority, which include a few internal notes and a couple placeholders I am hoping you all can help fill in.

Rory, after FMG reviews these, I believe you were also going to run them by CMCS leadership. Looping Evelyn here to see if we can also hold some windows on your calendar to offer to Committee staff for this discussion – perhaps we aim for times within the next couple weeks? Committee staff haven't pinged us again yet, but we will let you know if they do.

Thanks,
Gayle

DRAFT Talking Points for E&C Majority Staff Call – Hold Harmless Guidance

- As you know, on February 17, 2023, CMS issued a Medicaid informational bulletin regarding health care-related taxes and hold harmless arrangements involving the redistribution of Medicaid payments.
- Hold harmless arrangements, as defined in the Medicaid statute, are arrangements in which the State or another unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax. The statute prohibits these arrangements.
- Recently, we have been approached by several states with questions about complying with this provision of law, and we have also learned of states that may have existing arrangements or are considering establishing them, particularly with respect to states establishing or renewing Medicaid managed care state directed payments.
- The informational bulletin reiterates the federal requirements concerning hold harmless arrangements with respect to health care-related taxes. We hope that this guidance provides additional clarity to states, and we also encourage them to raise any questions or concerns they may have about the permissibility of health care-related taxes to CMS as early in the process as possible, to avoid any issues.
- Regarding your question about which states may have these types of arrangements, there are 3 states that CMS understands may have impermissible hold harmless arrangements, and 1 state we wanted to mention as an example of where we were able to intervene early in the process of establishing what may have been an impermissible hold harmless arrangement.
- Starting with the 3 states that may have these arrangements:
 - **Texas:**

- Texas has in place what is known as the Local Provider Payment Fund or LPPF. Based on information obtained by CMS, including limited information provided by the state and publicly available third-party materials, the LPPF arrangements used by some localities in Texas appear to include hold harmless arrangements because the localities impose a tax and the state directly or indirectly provides for payments that guarantee to hold the taxpayers harmless for all or any portion of the tax amount. If our understanding of those LPPF arrangements is correct, they constitute hold harmless arrangements that are prohibited under the Medicaid statute and CMS regulations. [this language is pulled from the publicly available November 2021 [letter](#) to the State; page 5 includes additional detail regarding our understanding of the arrangement]
 - CMS has communicated these concerns to the state and, when we recently approved Texas' state directed payments, we included in our approval letter that approval of the state directed payments does not constitute any specific Medicaid financing mechanism used to support the non-federal share of the provider payment arrangement. We also clarified that we reserve the authority to enforce requirements, including by initiating separate deferrals and/or disallowances of federal financial participation.
 - As you may be aware, the HHS OIG [announced](#) in November 2021 that it is examining states' use of LPPFs as the state share of Medicaid payments, and that it expects to issue a report in FY 2023 that indicates whether the LPPFs the state agency used were permissible. [for internal awareness, the OIG work plan does not specifically name Texas]
 - **Florida:**
 - Similarly, Florida has in place an LPPF that we also understand includes hold harmless arrangements. [the attached FMR engagement letter includes additional detail regarding our understanding of the arrangement]
 - In Florida's case, we were working with the state for some time in an effort to address the concerns, but have been unable to resolve them. Like Texas, we communicated our concerns to the state and, when we recently approved Florida's state directed payments, we provided the same information as was included in the letter to Texas—that the approval does not constitute approval of the Medicaid financing mechanism, and that we reserve the authority to enforce requirements.
 - In late February, we sent a letter to Florida initiating a Financial Management Review (FMR) to examine the state Medicaid agency's compliance with federal requirements over the next several months.
 - **Missouri:**
 - Lastly, Missouri has a longstanding arrangement called the Federal Reimbursement Allowance tax program that appears to include a hold harmless arrangement, and in 2020, CMS engaged the state about its concerns. Also in 2020, the then CMCS Director sent a letter to the state describing our concerns and memorializing a conversation with state Medicaid agency leadership who at that time committed to ending the hold harmless arrangement by X timeframe.
 - While the state has not done that, state leadership has been willing to respond to CMS' questions. In late February, we also sent a letter to Missouri—but, based on our ability to obtain more information from Missouri, we have initiated a focused review of Missouri's program expenditures reported to CMS on the Form CMS-64, rather than an FMR. [the attached CMS-64 review letter includes some additional information]
- With respect to the state I mentioned where we were successful in intervening early:
 - **Louisiana:**
 - In X month and year, we received information that suggested Louisiana's legislature was developing what would have been a hold harmless arrangement as part of the financing mechanism for its state directed payment program. We engaged the state about those issues, worked with the state on alternatives that would comply with federal law, and ultimately the state withdrew the state directed payment proposal it had submitted and submitted a modified proposal.

- We are hopeful that the guidance we issued will further promote our efforts to work with states and get ahead of these issues as we did in Louisiana.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, February 21, 2023 2:37 PM
To: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: E&C Majority Inquiry - Hold Harmless

Hi Gayle,

A call sounds right to me. Please also include Jeremy, Amber, and Charlie in the discussion. For awareness, tomorrow, FMG is planning to issue a letter to Florida and a question set to Missouri on this issue. Both states appear to have concerning arrangements in place and the letter/question set tomorrow are part of our work to address the arrangements. Let me know if you have any questions in the interim.

Thanks,
Rory

From: Mauser, Gayle (CMS/OL) <Gayle.Mauser@cms.hhs.gov>
Sent: Tuesday, February 21, 2023 1:57 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Subject: E&C Majority Inquiry - Hold Harmless

Hi Rory,

After Friday's hold harmless CIB went out, we received an inquiry from House E&C majority staff asking for more information—in particular, about the language from the list serv notice indicating “recently, CMS became aware that some health care-related tax programs appear to involve agreements among providers to redistribute their Medicaid payments to hold taxpayers harmless for the cost of the tax.”

Specifically, the staff would like to know about the instances CMS has found, and the steps the agency is taking to address those agreements.

I imagine it will be most efficient to have a quick call to discuss actions to date, anticipated upcoming actions, and next steps for responding to the Hill—does that work for you? Are there others who should be included?

Thanks,
Gayle

Gayle Mauser
(she/her)
Low Income Programs Analysis Group
Office of Legislation
Centers for Medicare & Medicaid Services (CMS)
Cell Phone: b(6)

Message

From: Goldstein, Stuart (CMS/CMCS); [REDACTED] b(6)
[REDACTED] b(6)
Sent: 3/28/2023 12:18:56 PM
To: Howe, Rory (CMS/CMCS); [REDACTED] b(6)
[REDACTED] b(6) Maccarroll, Amber
Subject: RE: RE: Prep Call for on Hold Harmless Guidance with Rep. Al Green's Office

Rory/Amber

Should I be including Jonathan on this call.

Thanks Stuart

-----Original Appointment-----

From: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Sent: Tuesday, March 14, 2023 2:07 PM
To: Wiley, Evelyn (CMS/CMCS); Howe, Rory (CMS/CMCS); Maccarroll, Amber (CMS/CMCS); Silanskis, Jeremy (CMS/CMCS); Clark, Jennifer (CMS/CMCS); Goldstein, Stuart (CMS/CMCS); Boston, Beverly (CMS/CMCS); Mauser, Gayle (CMS/OL); Kirchgraber, Kate (CMS/OL)
Cc: Arnold, Charlie (CMS/CMCS); Martino, Maria (CMS/OL); Howell, Cherie (CMS/OL); Chadwick, Alpheus (CMS/OL)
Subject: Prep Call for on Hold Harmless Guidance with Rep. Al Green's Office
When: Tuesday, March 28, 2023 11:30 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: <https://cms.zoomgov.com/j/1610495162?pwd=YIU3QldVeUxQNExack1aU2YwYjRTZz09>

Order of Events:

- Tuesday 3/28 – internal prep for briefing with Rep. Green’s (TX) office on how the hold harmless letter relates to Texas (**Draft talking points below; FMG reviewing/seeking CMCS OCD clearance**). We will also plan to use this time to ensure we’re all on the same page regarding the bullets that follow.
- Wednesday 3/29 – call with Rep. Green’s (TX) office
- Thursday, 3/30 – issuance of Missouri deferral; OL will notify authorizing committee staff and the Missouri delegation (**OL drafting QAs we expect from the Hill**)
- Tuesday, 4/4 – briefing with E&C minority staff on the hold harmless guidance more generally, what states may have hold harmless arrangements, etc.

Draft Talking Points for Rep. Green Call (3/29)

- We know you are interested in particular on Texas, but we thought it might be helpful to first provide some general context about the guidance you asked about:
 - As you know, on February 17, 2023, CMS issued a Medicaid informational bulletin regarding health care-related taxes and hold harmless arrangements involving the redistribution of Medicaid payments.
 - Hold harmless arrangements, as defined in the Medicaid statute, are arrangements in which the State or another unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax. The statute prohibits these arrangements.
 - Recently, we have been approached by several states with questions about complying with this provision of law, and we have also learned of states that may have existing arrangements or are considering establishing them, particularly with respect to states establishing or renewing Medicaid managed care state directed payments.

- The informational bulletin reiterates the federal requirements concerning hold harmless arrangements with respect to health care-related taxes. We hope that this guidance provides additional clarity to states, and we also encourage them to raise any questions or concerns they may have about the permissibility of health care-related taxes to CMS as early in the process as possible, to avoid any issues.
- With respect to Texas specifically:
 - As you know, Texas has in place what is known as the Local Provider Payment Fund or LPPF. Based on information obtained by CMS, including limited information provided by the state and publicly available third-party materials, the LPPF arrangements used by some localities in Texas appear to include hold harmless arrangements because the localities impose a tax and the state directly or indirectly provides for payments that guarantee to hold the taxpayers harmless for all or any portion of the tax amount. If our understanding of those LPPF arrangements is correct, they constitute hold harmless arrangements that are prohibited under the Medicaid statute and CMS regulations. [this language is pulled from the publicly available November 2021 [letter](#) to the State; page 5 includes additional detail regarding our understanding of the arrangement]
 - CMS has communicated these concerns to the state and, when we recently approved Texas' state directed payments, we included in our approval letter that approval of the state directed payments does not constitute any specific Medicaid financing mechanism used to support the non-federal share of the provider payment arrangement. We also clarified that we reserve the authority to enforce requirements, including by initiating separate deferrals and/or disallowances of federal financial participation.
 - As you may be aware, the HHS OIG [announced](#) in November 2021 that it is examining states' use of LPPFs as the state share of Medicaid payments, and that it expects to issue a report in FY 2023 that indicates whether the LPPFs the state agency used were permissible. [for internal awareness, the OIG work plan does not specifically name Texas]
- As is the case with any state, if CMS or an oversight agency discovers the existence of impermissible financing practices related to health care related taxes, CMS will take enforcement action as necessary.

Draft Talking Points for E&C Minority Call (4/4)

- As you know, on February 17, 2023, CMS issued a Medicaid informational bulletin regarding health care-related taxes and hold harmless arrangements involving the redistribution of Medicaid payments.
- Hold harmless arrangements, as defined in the Medicaid statute, are arrangements in which the State or another unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax. The statute prohibits these arrangements.
- This is not new policy or, as I understand is circulating, a revival of MFAR. Unlike MFAR, which was proposed rulemaking to change Medicaid regulations relating to multiple aspects of Medicaid financing, the guidance we issued in February reiterates existing requirements under current law and regulations. [E&C minority staff noted that the letter is being called the "MFAR letter"]
- Recently, we have been approached by several states with questions about complying with this provision of law, and we have also learned of states that may have existing arrangements or are considering establishing them, particularly with respect to states establishing or renewing Medicaid managed care state directed payments.
- We hope that this guidance provides additional clarity to states, and we also encourage them to raise any questions or concerns they may have about the permissibility of health care-related taxes to CMS as early in the process as possible, to avoid any issues.
- Regarding your question about which states may have these types of arrangements, there are 3 states that CMS understands may have impermissible hold harmless arrangements, and 1 state we wanted to mention as an example of where we were able to intervene early in the process of establishing what may have been an impermissible hold harmless arrangement.
- Starting with the 3 states that may have these arrangements:
 - **Texas:**
 - Texas has in place what is known as the Local Provider Payment Fund or LPPF. Based on information obtained by CMS, including limited information provided by the state and publicly available third-party materials, the LPPF arrangements used by some localities in Texas appear

to include hold harmless arrangements because the localities impose a tax and the state directly or indirectly provides for payments that guarantee to hold the taxpayers harmless for all or any portion of the tax amount. If our understanding of those LPPF arrangements is correct, they constitute hold harmless arrangements that are prohibited under the Medicaid statute and CMS regulations. [this language is pulled from the publicly available November 2021 [letter](#) to the State; page 5 includes additional detail regarding our understanding of the arrangement]

- CMS has communicated these concerns to the state and, when we recently approved Texas' state directed payments, we included in our approval letter that approval of the state directed payments does not constitute any specific Medicaid financing mechanism used to support the non-federal share of the provider payment arrangement. We also clarified that we reserve the authority to enforce requirements, including by initiating separate deferrals and/or disallowances of federal financial participation.
- As you may be aware, the HHS OIG [announced](#) in November 2021 that it is examining states' use of LPPFs as the state share of Medicaid payments, and that it expects to issue a report in FY 2023 that indicates whether the LPPFs the state agency used were permissible. [for internal awareness, the OIG work plan does not specifically name Texas]
- **Florida:**
 - Similarly, Florida has in place an LPPF that we also understand includes hold harmless arrangements.
 - In Florida's case, we were working with the state for some time in an effort to address the concerns, but have been unable to resolve them. Like Texas, we communicated our concerns to the state and, when we recently approved Florida's state directed payments, we provided the same information as was included in the letter to Texas—that the approval does not constitute approval of the Medicaid financing mechanism, and that we reserve the authority to enforce requirements.
 - In late February, we sent a letter to Florida initiating a Financial Management Review (FMR) to examine the state Medicaid agency's compliance with federal requirements over the next several months.
- **Missouri:**
 - As you know, we took deferral action in Missouri last week.
 - Missouri has a longstanding arrangement called the Federal Reimbursement Allowance tax program that appears to include a hold harmless arrangement, and in 2019, we became aware of details of the arrangement that outlined hold harmless aspects. In 2020, CMS engaged the state about its concerns. Also in 2020, the then CMCS Director sent a letter to the state describing our concerns and memorializing a conversation with state Medicaid agency leadership who at that time committed to ending the hold harmless arrangement by June 30, 2021.
 - Contrary to its commitment documented in the July 28, 2020 letter, the state recently informed CMS that it does not intend to end its pooling arrangement.
 - In late February, we sent a letter to Missouri initiating a focused review of Missouri's program expenditures reported to CMS on the Form CMS-64, and as part of the review of the CMS-64 for the December 31, 2022 quarter, on February 17, 2023, we sent the state some questions to confirm our understanding of the Missouri FRA program and pooling arrangement. On March 10, 2023, the state responded to CMS with responses that supported our continued concerns regarding the tax and, last week, we issued a deferral.
 - *If asked about the size of the deferral:* The \$236.6 million dollar deferral represents the federal portion of the FRA tax collected by the state for the first quarter of 2023. The Medicaid statute (1903(w)(1)(A)(iii)) does not permit only deferring a portion of an unallowable tax. Importantly, though, the state could preserve its entire tax collection by ending the redistributions, which we understand involves only a portion of the FRA tax collected.
- With respect to the state I mentioned where we were successful in intervening early:
 - **Louisiana:**

- In X month and year, we received information that suggested Louisiana's legislature was developing what would have been a hold harmless arrangement as part of the financing mechanism for its state directed payment program. We engaged the state about those issues, worked with the state on alternatives that would comply with federal law, and ultimately the state withdrew the state directed payment proposal it had submitted and submitted a modified proposal.
- We are hopeful that the guidance we issued will further promote our efforts to work with states and get ahead of these issues as we did in Louisiana.

Evelyn Wiley is inviting you to a scheduled ZoomGov meeting.

Join ZoomGov Meeting

<https://cms.zoomgov.com/join/> **b(6)**

Meeting ID: **b(6)**

Password: **b(6)**

One tap mobile

+16692545252 **b(6)** US (San Jose)

+16468287666 **b(6)** US (New York)

Dial by your location

+1 669 254 5252 US (San Jose)

+1 646 828 7666 US (New York)

833 568 8864 US Toll-free

Meeting ID: **b(6)**

Password: **b(6)** **b(6)**

Find your local number: <https://cms.zoomgov.com/join/> **b(6)**

Join by SIP

Password: **b(6)**

[sip://**b\(6\)**@sip.zoomgov.com](sip://b(6)@sip.zoomgov.com)

This meeting may be recorded. The host is responsible for maintaining any official recordings/transcripts of this meeting. If recorded, this meeting becomes an official record and shall be retained by the host in their files for 3 years or if longer needed for agency business. If a recording intends be fully transcribed or is being captured for the purpose of creating meeting minutes, the host shall retain the record in their files for 3 years or if no longer needed for agency business, whichever is later.

Message

From: Goldstein, Stuart (CMS/CMCS) [REDACTED] b(6)
[REDACTED] b(6)
Sent: 3/28/2023 1:23:10 PM
To: Howe, Rory (CMS/CMCS) [REDACTED] b(6)
[REDACTED] b(6) Maccarroll, Amber
Subject: RE: RE: Prep Call for on Hold Harmless Guidance with Rep. Al Green's Office

Thanks

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 9:20 AM
To: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: RE: Prep Call for on Hold Harmless Guidance with Rep. Al Green's Office

Yes, that is fine to include Jonathan.

From: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 8:19 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: RE: Prep Call for on Hold Harmless Guidance with Rep. Al Green's Office

Rory/Amber

Should I be including Jonathan on this call.

Thanks Stuart

-----Original Appointment-----

From: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Sent: Tuesday, March 14, 2023 2:07 PM
To: Wiley, Evelyn (CMS/CMCS); Howe, Rory (CMS/CMCS); Maccarroll, Amber (CMS/CMCS); Silanskis, Jeremy (CMS/CMCS); Clark, Jennifer (CMS/CMCS); Goldstein, Stuart (CMS/CMCS); Boston, Beverly (CMS/CMCS); Mauser, Gayle (CMS/OL); Kirchgraber, Kate (CMS/OL)
Cc: Arnold, Charlie (CMS/CMCS); Martino, Maria (CMS/OL); Howell, Cherie (CMS/OL); Chadwick, Alpheus (CMS/OL)
Subject: Prep Call for on Hold Harmless Guidance with Rep. Al Green's Office
When: Tuesday, March 28, 2023 11:30 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: <https://cms.zoomgov.com/j/1610495162?pwd=YIU3QldVeUxQNExack1aU2YwYjRTZz09>

Order of Events:

- Tuesday 3/28 – internal prep for briefing with Rep. Green’s (TX) office on how the hold harmless letter relates to Texas (**Draft talking points below; FMG reviewing/seeking CMCS OCD clearance**). We will also plan to use this time to ensure we’re all on the same page regarding the bullets that follow.
- Wednesday 3/29 – call with Rep. Green’s (TX) office

- Thursday, 3/30 – issuance of Missouri deferral; OL will notify authorizing committee staff and the Missouri delegation (**OL drafting QAs we expect from the Hill**)
- Tuesday, 4/4 – briefing with E&C minority staff on the hold harmless guidance more generally, what states may have hold harmless arrangements, etc.

Draft Talking Points for Rep. Green Call (3/29)

- We know you are interested in particular on Texas, but we thought it might be helpful to first provide some general context about the guidance you asked about:
 - As you know, on February 17, 2023, CMS issued a Medicaid informational bulletin regarding health care-related taxes and hold harmless arrangements involving the redistribution of Medicaid payments.
 - Hold harmless arrangements, as defined in the Medicaid statute, are arrangements in which the State or another unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax. The statute prohibits these arrangements.
 - Recently, we have been approached by several states with questions about complying with this provision of law, and we have also learned of states that may have existing arrangements or are considering establishing them, particularly with respect to states establishing or renewing Medicaid managed care state directed payments.
 - The informational bulletin reiterates the federal requirements concerning hold harmless arrangements with respect to health care-related taxes. We hope that this guidance provides additional clarity to states, and we also encourage them to raise any questions or concerns they may have about the permissibility of health care-related taxes to CMS as early in the process as possible, to avoid any issues.
- With respect to Texas specifically:
 - As you know, Texas has in place what is known as the Local Provider Payment Fund or LPPF. Based on information obtained by CMS, including limited information provided by the state and publicly available third-party materials, the LPPF arrangements used by some localities in Texas appear to include hold harmless arrangements because the localities impose a tax and the state directly or indirectly provides for payments that guarantee to hold the taxpayers harmless for all or any portion of the tax amount. If our understanding of those LPPF arrangements is correct, they constitute hold harmless arrangements that are prohibited under the Medicaid statute and CMS regulations. [this language is pulled from the publicly available November 2021 [letter](#) to the State; page 5 includes additional detail regarding our understanding of the arrangement]
 - CMS has communicated these concerns to the state and, when we recently approved Texas' state directed payments, we included in our approval letter that approval of the state directed payments does not constitute any specific Medicaid financing mechanism used to support the non-federal share of the provider payment arrangement. We also clarified that we reserve the authority to enforce requirements, including by initiating separate deferrals and/or disallowances of federal financial participation.
 - As you may be aware, the HHS OIG [announced](#) in November 2021 that it is examining states' use of LPPFs as the state share of Medicaid payments, and that it expects to issue a report in FY 2023 that indicates whether the LPPFs the state agency used were permissible. [for internal awareness, the OIG work plan does not specifically name Texas]
- As is the case with any state, if CMS or an oversight agency discovers the existence of impermissible financing practices related to health care related taxes, CMS will take enforcement action as necessary.

Draft Talking Points for E&C Minority Call (4/4)

- As you know, on February 17, 2023, CMS issued a Medicaid informational bulletin regarding health care-related taxes and hold harmless arrangements involving the redistribution of Medicaid payments.
- Hold harmless arrangements, as defined in the Medicaid statute, are arrangements in which the State or another unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax. The statute prohibits these arrangements.

- This is not new policy or, as I understand is circulating, a revival of MFAR. Unlike MFAR, which was proposed rulemaking to change Medicaid regulations relating to multiple aspects of Medicaid financing, the guidance we issued in February reiterates existing requirements under current law and regulations. [E&C minority staff noted that the letter is being called the “MFAR letter”]
- Recently, we have been approached by several states with questions about complying with this provision of law, and we have also learned of states that may have existing arrangements or are considering establishing them, particularly with respect to states establishing or renewing Medicaid managed care state directed payments.
- We hope that this guidance provides additional clarity to states, and we also encourage them to raise any questions or concerns they may have about the permissibility of health care-related taxes to CMS as early in the process as possible, to avoid any issues.
- Regarding your question about which states may have these types of arrangements, there are 3 states that CMS understands may have impermissible hold harmless arrangements, and 1 state we wanted to mention as an example of where we were able to intervene early in the process of establishing what may have been an impermissible hold harmless arrangement.
- Starting with the 3 states that may have these arrangements:
 - **Texas:**
 - Texas has in place what is known as the Local Provider Payment Fund or LPPF. Based on information obtained by CMS, including limited information provided by the state and publicly available third-party materials, the LPPF arrangements used by some localities in Texas appear to include hold harmless arrangements because the localities impose a tax and the state directly or indirectly provides for payments that guarantee to hold the taxpayers harmless for all or any portion of the tax amount. If our understanding of those LPPF arrangements is correct, they constitute hold harmless arrangements that are prohibited under the Medicaid statute and CMS regulations. [this language is pulled from the publicly available November 2021 [letter](#) to the State; page 5 includes additional detail regarding our understanding of the arrangement]
 - CMS has communicated these concerns to the state and, when we recently approved Texas’ state directed payments, we included in our approval letter that approval of the state directed payments does not constitute any specific Medicaid financing mechanism used to support the non-federal share of the provider payment arrangement. We also clarified that we reserve the authority to enforce requirements, including by initiating separate deferrals and/or disallowances of federal financial participation.
 - As you may be aware, the HHS OIG [announced](#) in November 2021 that it is examining states’ use of LPPFs as the state share of Medicaid payments, and that it expects to issue a report in FY 2023 that indicates whether the LPPFs the state agency used were permissible. [for internal awareness, the OIG work plan does not specifically name Texas]
 - **Florida:**
 - Similarly, Florida has in place an LPPF that we also understand includes hold harmless arrangements.
 - In Florida’s case, we were working with the state for some time in an effort to address the concerns, but have been unable to resolve them. Like Texas, we communicated our concerns to the state and, when we recently approved Florida’s state directed payments, we provided the same information as was included in the letter to Texas—that the approval does not constitute approval of the Medicaid financing mechanism, and that we reserve the authority to enforce requirements.
 - In late February, we sent a letter to Florida initiating a Financial Management Review (FMR) to examine the state Medicaid agency’s compliance with federal requirements over the next several months.
 - **Missouri:**
 - As you know, we took deferral action in Missouri last week.
 - Missouri has a longstanding arrangement called the Federal Reimbursement Allowance tax program that appears to include a hold harmless arrangement, and in 2019, we became aware of details of the arrangement that outlined hold harmless aspects. In 2020, CMS engaged the state about its concerns. Also in 2020, the then CMCS Director sent a letter to the state

describing our concerns and memorializing a conversation with state Medicaid agency leadership who at that time committed to ending the hold harmless arrangement by June 30, 2021.

- Contrary to its commitment documented in the July 28, 2020 letter, the state recently informed CMS that it does not intend to end its pooling arrangement.
- In late February, we sent a letter to Missouri initiating a focused review of Missouri's program expenditures reported to CMS on the Form CMS-64, and as part of the review of the CMS-64 for the December 31, 2022 quarter, on February 17, 2023, we sent the state some questions to confirm our understanding of the Missouri FRA program and pooling arrangement. On March 10, 2023, the state responded to CMS with responses that supported our continued concerns regarding the tax and, last week, we issued a deferral.
- *If asked about the size of the deferral:* The \$236.6 million dollar deferral represents the federal portion of the FRA tax collected by the state for the first quarter of 2023. The Medicaid statute (1903(w)(1)(A)(iii)) does not permit only deferring a portion of an unallowable tax. Importantly, though, the state could preserve its entire tax collection by ending the redistributions, which we understand involves only a portion of the FRA tax collected.
- With respect to the state I mentioned where we were successful in intervening early:
 - **Louisiana:**
 - In X month and year, we received information that suggested Louisiana's legislature was developing what would have been a hold harmless arrangement as part of the financing mechanism for its state directed payment program. We engaged the state about those issues, worked with the state on alternatives that would comply with federal law, and ultimately the state withdrew the state directed payment proposal it had submitted and submitted a modified proposal.
- We are hopeful that the guidance we issued will further promote our efforts to work with states and get ahead of these issues as we did in Louisiana.

Evelyn Wiley is inviting you to a scheduled ZoomGov meeting.

Join ZoomGov Meeting [https://cms.zoomgov.com/](https://cms.zoomgov.com/join/91234567890) **b(6)**

Meeting ID: **b(6)**
Password: **b(6)**

One tap mobile
+16692545252, **b(6)** US (San Jose)
+16468287666, **b(6)** US (New York)

Dial by your location
+1 669 254 5252 US (San Jose)
+1 646 828 7666 US (New York)
833 568 8864 US Toll-free

Meeting ID: **b(6)**
Password: **b(6)**
Find your local number: <https://cms.zoomgov.com/yourlocalnumber> **b(6)**

Join by SIP
Password: **b(6)**
[sip://**b\(6\)**@sip.zoomgov.com](https://sip.zoomgov.com/join/91234567890)

This meeting may be recorded. The host is responsible for maintaining any official recordings/transcripts of this meeting. If recorded, this meeting becomes an official record and shall be retained by the host in their files for 3 years or if longer needed for agency business. If a recording intends be fully transcribed or is being captured for the purpose of creating meeting minutes, the host shall retain the record in their files for 3 years or if no longer needed for agency business, whichever is later.

Message

From: Endelman (he/him), Jonathan (CMS/CMCS); [redacted] b(6)
[redacted] b(6)
Sent: 3/28/2023 6:51:52 PM
To: adams, lia (CMS/CMCS); [redacted] b(6)
[redacted] b(6) Maccarroll, Amber
; Howe, Rory
CC: Arnold, Charlie (CMS/CMCS); [redacted] b(6)
[redacted] b(6) Clark, Jennifer
Cuno, Richard
Fan, Kristin
Goldstein, Stuart
Heitt, Melissa
Mosley, Elle (CMS/CMCS)
Schoonover, Matthew
Subject: RE: RE: CA MCO Tax

Just wanted to follow up on this paper. Do we want to move forward with this?

Thanks.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Friday, February 17, 2023 10:45 AM
To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS)

<Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>

Subject: RE: CA MCO Tax

Dear Lia and Amber,

DFP has updated the Joint Clearance agenda for the 2/23/2023 and added the CA MCO OA Issues paper to the Joint Clearance folder. The paper is ready for OGD review. We are awaiting further instructions on the Texas, Missouri, Florida OA Issues paper, which is also ready. If needed, we can add the paper to the 2/23/2023 joint clearance folder as well as the agenda. Please let us know OGD's preferences.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Sent: Thursday, February 16, 2023 12:00 PM

To: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Cc: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>

Subject: FW: CA MCO Tax

Hi Amber – DFP is working on the CA MCO tax paper (in issues format) to bring to 02/23 Joint Clearance (see below).

Also, in the email below, Jonathan mentions a paper on the TX OIG audit, FL FMR, and MI FRA issue. I wanted to check-in on this because I know a lot is moving and am not sure what the current status is/whether a paper is needed.

Thanks,
Lia

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Thursday, February 16, 2023 11:30 AM

To: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Burdullis, Brian (CMS/CMCS) <Brian.Burdullis@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS)

<Charlie.Arnold@cms.hhs.gov>

Subject: RE: CA MCO Tax

Lia,

I sent out a draft OA issues paper on the CA MCO tax to the team. We will have something for you once the team has weighed in. Also at the meeting last Thursday Dan expressed a desire for an OA issues paper summarizing the Texas LPPF OIG audit, the Florida LPPF FMR, and the Missouri FRA CMS-64 review. We have been preparing that paper. Please let us know if and when we would need to advance it to OA issues as well. It is close to being complete. Thank you.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Thursday, February 16, 2023 10:05 AM
To: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Burdullis, Brian (CMS/CMCS) <Brian.Burdullis@cms.hhs.gov>
Subject: RE: CA MCO Tax

Looping in Brian with whom I have been talking about the STC issue.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Sent: Thursday, February 16, 2023 9:29 AM
To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Cc: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Subject: RE: CA MCO Tax

Lia,

We will work on the paper and will have it completed by COB tomorrow. Also, we will add a blurb to the agenda using the current blurb and update it based on our updated issue paper.

Thanks Stuart

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Sent: Thursday, February 16, 2023 9:22 AM

To: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>

Subject: RE: CA MCO Tax

Hi Stuart,

Heard back from Amber. We are going to aim to bring the paper (in Issues format) up to OCD for the 2/23 Joint Clearance meeting (please also add a blurb to the agenda). Do you think you can draft the paper by COB Friday or very first thing on Tuesday morning?

1. California Managed Care Organization (MCO) Tax – Status Update (Verbal)

- **Background:** FMG will provide CMCS leadership with a status update regarding California's proposed MCO tax. On January 29, 2023 California provided a spreadsheet detailing a draft proposal to reimplement its MCO tax sometime this year. In general, the tax amount appears to have tripled from approximately \$2 billion to approximately \$~9 billion annually. We met with California on January 31, 2023 to provide initial feedback on the proposal. The state also submitted additional information in response to this conversation on February 7th. Of note, the state is requesting clear feedback from CMS no later than March 17th regarding whether the tax will be approvable if it meets the statistical B1/B2 test despite utilizing the regulatory loophole. The state also noted a critical error state-error understanding total MCO revenue in its 2019 waiver submission, which was ultimately approved by CMS.
- **Group Presenting:** FMG

Wrap Up: FMG to bring to upcoming OA issues meeting once team has finished discussing with OGC; issues paper can be short (don't get into too much detail) and should lay out the options; OCD can review paper over email

- FMG: This is a heads up on CA MCO tax status; we have been going back and forth with the state; the state submitted a draft proposal over the life of the tax. We have questions for the state and we can bring them back but we are asking for feedback on the overall approvability of the loophole – wanted to flag b/c the timeline is pretty tight
- Dan: it went from 2 to 9 billion?
- FMG: right; and in their 2019 tax approval they omitted MCO revenue due to a typographical error – very significant exclusion. Our approvals tend to be open ended as long as the state does not make a non-uniform changes; CA specifically asked for a 3 year approval
- Dan: are we ever going to deal with STC issue?

- Rory: I think we should
- Dan: given the size, implication, and what will come, FMG should finish OGC discussion and draft a short issue paper (would not get in too much detail) with 2 options – can review paper over email

From: adams, lia (CMS/CMCS)

Sent: Thursday, February 16, 2023 8:38 AM

To: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Subject: RE: CA MCO

No, I have not. Let me check-in with Amber.

From: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Sent: Thursday, February 16, 2023 8:32 AM

To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Cc: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Subject: CA MCO

Lia,

Have you heard back from Rory on the CA issue?

Thanks Stuart

Message

From: Sampson, Tamara (CMS/CMCS) [REDACTED] b(6)
[REDACTED] b(6)
Sent: 3/28/2023 9:39:20 PM
To: Thompson, Christopher (CMS/CMCS) [REDACTED] b(6)
[REDACTED] b(6)
Silanskis, Jeremy
Howe, Rory (CMS/CMCS)
Maccarroll, Amber
Badaracco, Andrew
]; Mcmillion, Todd

Subject: RE: RE: DRP/DRR 3:4
Attachments: NY DISAPPROVAL DOCUMENTS - bonus payment SPAs NY-22-0069, 22-0070, and 22-0071; RE: RE: Need clearance for DR LA-23-0001 - 90th day is April 6; Oregon tax issue and impact on pending SPAs for OGD consideration

Good Afternoon,

We can answer any of your questions during Thursday's 3 on 4 call.

Please see below for more information on DRR's discussion topics.

Thanks,
Tammy

From: Thompson, Christopher (CMS/CMCS) <Christopher.Thompson@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 7:09 AM
To: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Badaracco, Andrew (CMS/CMCS) <Andrew.Badaracco@cms.hhs.gov>; Mcmillion, Todd (CMS/CMCS) <TODD.MCMILLION@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Subject: RE: DRP/DRR 3:4

Hey Jeremy,

Below are the following items we had planned to discuss in the 4-on-3 Meeting

DRP Items:

- **DMCP SOP Request –DMCP Coordination:** As this is an on-going conversation, we can postpone this discussion until Thursday.
- **SBS TAC- Report to Congress:** The BSCA legislation requires CMS to issue a report to congress 2 years after the creation of the TAC to quantify the impact that the TAC made. We've heard that Congress requested weekly updates on the TAC progress? Are these requests applicable to pre-TAC implementation or does Congress want frequent (weekly/monthly) progress reports once the TAC is up and running. If the latter, we will need to amend to the TAC SOW to account for contractor assistance in creating these reports.

Reminders: None

DRR Items:

- NY Bonus payment SPAs 45th day is 4/1: DRR is working on Disapproval Packages and Briefing Paper; FMG/OGD needs the disapproval packages by COB Tuesday 3/28
Please see attached email with disapproval package and other documents.
- Oregon – NIPT 23-0002(90th day April 4) and DR 23-0005 (April 11) SPA-tax issue – conditional language in the approval letter similar to RI and NH.
This impacts 4 pending Oregon SPAs. Please see Gary’s email for more details.

Recommendation for Oregon SPAs while tax waiver is being requested, reviewed, and negotiated/considered:

1. Treat Oregon SPAs consistent with those of New Hampshire and Rhode Island and issue approvals with conditional wording in the approval letter.
2. Issue an RAI asking Oregon to submit the necessary documentation to request a waiver of tax requirements. (the issue here is that responding to the RAI puts the tax team on a 90 day clock to review and approve the waiver)

Two Oregon SPAs with 90th day pending before April 15th in the attached Excel.

Additional details in the attached email string - Not expecting you to read through the email string – I can answer any questions, but attempting to summarize:

At issue seems to be an approved exemption for public hospitals, but two private facilities were excluded by Oregon in implementation of the tax. Oregon excludes a Long-Term Acute Care (LTAC) facility and a private mental health hospital from the tax assessment.

b(5)

- LA-23-0001 – RAI – language similar NC DR SPAs for technical correction
90th day is April 6 – Alissa Deboy always asks if FMG leadership is okay with RAI questions. Please see Gary’s email for the details.
- Revised DSH Acknowledgement Letter: 3/21-Rory was going to take another look at the language...need to know if OK?

Reminders: None

From: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>

Sent: Tuesday, March 28, 2023 7:11 AM

To: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Thompson, Christopher (CMS/CMCS) <Christopher.Thompson@cms.hhs.gov>; Badaracco, Andrew (CMS/CMCS) <Andrew.Badaracco@cms.hhs.gov>; Mcmillion, Todd (CMS/CMCS) <TODD.MCMILLION@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Kimball (he,him), Richard (CMS/CMCS) <Richard.Kimball@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Kaminsky, Stephanie (CMS/CMCS)

<Stephanie.Kaminsky@cms.hhs.gov>; Walker, Abigail (CMS/CMCS) <Abigail.Walker@cms.hhs.gov>; Thomas, Douglas (CMS/CMCS) <Douglas.Thomas@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Harrison, Wendy (CMS/CMCS) <Wendy.Harrison@cms.hhs.gov>; Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>

Cc: Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; Mikow, Asher (CMS/CMCS) <Asher.Mikow@cms.hhs.gov>; James-Hailey, Novena (CMS/CMCS) <novena.jameshailey@cms.hhs.gov>; bennett, jerica (CMS/CMCS) <Jerica.Bennett@cms.hhs.gov>; Bromwell, Robert (CMS/CMCS) <Robert.Bromwell@cms.hhs.gov>; Francis, James (CMS/CMCS) <James.Francis@cms.hhs.gov>

Subject: RE: DRP/DRR 3:4

Good morning –

Rory, Amber and I have an in person meeting with OCD this morning that conflicts with the DRP/DRR 3:4. We will need to cancel today and handle items through email. Thanks!

-----Original Appointment-----

From: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>

Sent: Sunday, September 11, 2022 2:56 PM

To: Wiley, Evelyn (CMS/CMCS); Howe, Rory (CMS/CMCS); Maccarroll, Amber (CMS/CMCS); Silanskis, Jeremy (CMS/CMCS); Boston, Beverly (CMS/CMCS); Thompson, Christopher (CMS/CMCS); Badaracco, Andrew (CMS/CMCS); Mcmillion, Todd (CMS/CMCS); Sampson, Tamara (CMS/CMCS); Fan, Kristin (CMS/CMCS); Kimball (he,him), Richard (CMS/CMCS); adams, lia (CMS/CMCS); Kaminsky, Stephanie (CMS/CMCS); Walker, Abigail (CMS/CMCS); Thomas, Douglas (CMS/CMCS); Bonelli, Anna (CMS/CMCS); Harrison, Wendy (CMS/CMCS); Knight, Gary (CMS/CMCS)

Cc: Heitt, Melissa (CMS/FCHCO); Mikow, Asher (CMS/CMCS); James-Hailey, Novena (CMS/CMCS); bennett, jerica (CMS/CMCS); Bromwell, Robert (CMS/CMCS); Francis, James (CMS/CMCS)

Subject: DRP/DRR 3:4

When: Tuesday, March 28, 2023 9:30 AM-10:00 AM (UTC-05:00) Eastern Time (US & Canada).

Where: <https://cms.zoomgov.com> [b(6)]

Evelyn Wiley is inviting you to a scheduled ZoomGov meeting.

Join ZoomGov Meeting
<https://cms.zoomgov.com> [b(6)]

Meeting ID: [b(6)]
Password: [b(6)]

One tap mobile
+16692545252, [b(6)] US (San Jose)
+16468287666, [b(6)] US (New York)

Dial by your location
+1 669 254 5252 US (San Jose)
+1 646 828 7666 US (New York)
833 568 8864 US Toll-free
Meeting ID: [b(6)]

Password: **b(6)**

Find your local number: <https://cms.zoomgov.com/> **b(6)**

Join by SIP: **b(6)**

Password: **b(6)**

sip: **b(6)**

This meeting may be recorded. The host is responsible for maintaining any official recordings/transcripts of this meeting. If recorded, this meeting becomes an official record and shall be retained by the host in their files for 3 years or if longer needed for agency business. If a recording intends be fully transcribed or is being captured for the purpose of creating meeting minutes, the host shall retain the record in their files for 3 years or if no longer needed for agency business, whichever is later.

Message

From: Sampson, Tamara (CMS/CMCS) [redacted] b(6)
[redacted] b(6)
Sent: 3/28/2023 3:56:25 PM
To: Silanskis, Jeremy (CMS/CMCS) [jeremy.silanskis@cms.hhs.gov]; Maccarroll, Amber (CMS/CMCS) [amber.maccarroll@cms.hhs.gov]; Thompson, Christopher (CMS/CMCS) [christopher.thompson@cms.hhs.gov]; Badaracco, Andrew (CMS/CMCS) [andrew.badaracco@cms.hhs.gov]; adams, lia (CMS/CMCS) [lia.adams@cms.hhs.gov]
CC: Howe, Rory (CMS/CMCS) [rory.howe@cms.hhs.gov]; Knight, Gary (CMS/CMCS) [gary.knight@cms.hhs.gov]; Mcmillion, Todd (CMS/CMCS) [todd.mcmillion@cms.hhs.gov]; Harrison, Wendy (CMS/CMCS) [wendy.harrison@cms.hhs.gov]; bennett, jerica (CMS/CMCS) [jerica.bennett@cms.hhs.gov]; Francis, James (CMS/CMCS) [james.francis@cms.hhs.gov]; Mack, Kristina (CMS/CMCS) [kristina.mack-webb@cms.hhs.gov]; Sanford, Dickerman (CMS/CMCS) [dickerman.sanford@cms.hhs.gov]; James-Hailey, Novena (CMS/CMCS) [novena.jameshailey@cms.hhs.gov]; Boston, Beverly (CMS/CMCS) [beverly.boston@cms.hhs.gov]
Subject: NY DISAPPROVAL DOCUMENTS - bonus payment SPAs NY-22-0069, 22-0070, and 22-0071
Attachments: New York SPAs Final Disapproval Agenda.docx; NY Final Disapproval Letter.docx; NY CMS Final Disapproval Memo.docx; NY SPAs Final Disapproval Q & A.docx
Flag: Follow up

Good Morning,

Attached is the disapproval package for the New York bonus payment SPAs (22-0069, 22-0070, and 22-0071).

The 45th day is April 1.

Do you want these document and a blurb to be uploaded to the Wednesday FMG clearance call?

Thanks,
Tammy

From: bennett, jerica (CMS/CMCS) <Jerica.Bennett@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 10:46 AM
To: Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Cc: James-Hailey, Novena (CMS/CMCS) <novena.jameshailey@cms.hhs.gov>; Bromwell, Robert (CMS/CMCS) <Robert.Bromwell@cms.hhs.gov>; James-Hailey, Novena (CMS/CMCS) <novena.jameshailey@cms.hhs.gov>; Mack, Kristina (CMS/CMCS) <Kristina.Mack-Webb@cms.hhs.gov>
Subject: FINAL NY DISAPPROVAL DOCUMENTS

OK! Last revisions, sorry for the back and forth. These are good to go!

Message

From: Knight, Gary (CMS/CMCS) [redacted] b(6)
[redacted] b(6)
Sent: 3/28/2023 1:13:31 PM
To: Silanskis, Jeremy (CMS/CMCS) [jeremy.silanskis@cms.hhs.gov]; Sampson, Tamara (CMS/CMCS) [tamara.sampson@cms.hhs.gov]
CC: Mcmillion, Todd (CMS/CMCS) [todd.mcmillion@cms.hhs.gov]; Neiman, Monica (CMS/CMCS) [monica.neiman@cms.hhs.gov]
Subject: RE: RE: Need clearance for DR LA-23-0001 - 90th day is April 6
Attachments: LA-23-0001 Proposed Plan Pages.pdf; LA-22-0015.pdf
Flag: Follow up

Hi Jeremy,

Since 3:4 was canceled, here is the discussion I wanted to have on the proposed LA DR SPA. Also, adding here the approved LA-22-0015 (beginning at the bottom of page 11 of 15) and the proposed LA-23-0001 (page 7 of 9).

I don't like putting SPAs in front of you for "review", hence the summary of proposed changes – but in case you need the SPAs; these RAI questions will be cleared on a COVID clearance call, so Alissa will be looking for someone in FMG to give a nod.

Options for SPA action/resolution:

1. Issue technical corrections similar to how we handled North Carolina's assuming Louisiana fits similar situation/characteristics, has an approved 9817 spending plan, continues to meet the MOE requirements for the minimum rates, etc.
2. Allow Louisiana to submit a rescission SPA by adding a page to "Pending-RAI" LA-21-0008 which was submitted 6/4/2021. Then split that rescission to LA-21-0008A. Based on the (vague) public notice of December 20, 2022 we could allow the rescission to have the 12/20/2022 effective date under 430.20 and 447.205; not quite the October 31, 2022 date but closer and maybe eliminates the December monthly payment so LA is only paying the one month of November beyond where they wanted.
3. Based on the LA-23-0001 submission date of January 2023, allow the \$300 payment proposed to replace the \$150 payment from April 1, 2022 through October 31, 2022; allow the rescission of the payment at December 31, 2022 and hold LA to make the \$150 payment for the period of November 1, 2022 to December 31, 2022 (two additional monthly payments of the \$150).
4. LA could blend the \$300 and \$150 into a monthly rate that gets them the resulting aggregate payment amounts spread over the period through December 31, 2022. This would terminate/rescind the payment January 1 under all SPA submission requirements and be a slightly more moderate increase over the \$150 also meeting the intent of the 1135 to enhance access or payment.

From: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 7:44 AM
To: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Cc: Mcmillion, Todd (CMS/CMCS) <TODD.MCMILLION@cms.hhs.gov>; Neiman, Monica (CMS/CMCS) <Monica.Neiman@cms.hhs.gov>
Subject: RE: Need clearance for DR LA-23-0001 - 90th day is April 6

Thanks Gary!

From: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>
Sent: Monday, March 27, 2023 4:46 PM

To: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Cc: Mcmillion, Todd (CMS/CMCS) <TODD.MCMILLION@cms.hhs.gov>; Neiman, Monica (CMS/CMCS) <Monica.Neiman@cms.hhs.gov>
Subject: Re: Need clearance for DR LA-23-0001 - 90th day is April 6

Also, meant last days (plural) - I know MCOG availability is slim through the end on this one.

From: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>
Sent: Monday, March 27, 2023 4:41:00 PM
To: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Cc: Mcmillion, Todd (CMS/CMCS) <TODD.MCMILLION@cms.hhs.gov>; Neiman, Monica (CMS/CMCS) <Monica.Neiman@cms.hhs.gov>
Subject: Re: Need clearance for DR LA-23-0001 - 90th day is April 6

Hi Jeremy,

They are replacing a DR approved \$150 per month payment with a \$300 per month payment. Normally that's perfect...an increase, right? Except the \$150 ran through the end of the PHE (would've been May 12, 2023) and now the \$300 ends at October 31, 2022. So there is a bit of a rescission concern and public notice didn't occur until December 20, 2022.

This, similar to the technically corrected NC DR SPAs, is related to the 9817 spending plan. I actually have this SPA for tomorrow 3:4 for a quick check regarding doing a technical correction a la North Carolina's DR SPAs, but the RAI needs to go since we are on last day. I also have thoughts on other ways (Rob Weaver ways) that we can get them part of the way there, if we can't offer the NC route.

From: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Sent: Monday, March 27, 2023 4:26:11 PM
To: Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Cc: Mcmillion, Todd (CMS/CMCS) <TODD.MCMILLION@cms.hhs.gov>; Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Neiman, Monica (CMS/CMCS) <Monica.Neiman@cms.hhs.gov>
Subject: RE: Need clearance for DR LA-23-0001 - 90th day is April 6

Hi Tammy –

I usually do not clear RAI questions and I'm not comfortable doing so without actually reviewing the SPA. Is there something specific about this SPA that has the team concerned?

Thanks.

From: Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Sent: Monday, March 27, 2023 4:23 PM
To: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Cc: Mcmillion, Todd (CMS/CMCS) <TODD.MCMILLION@cms.hhs.gov>; Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Neiman, Monica (CMS/CMCS) <Monica.Neiman@cms.hhs.gov>
Subject: Need clearance for DR LA-23-0001 - 90th day is April 6

Good Afternoon Jeremy,

We are seeking your clearance on RAI questions for DR SPA LA-23-0001.

The 90th day is April 6. MCOG will prepare the RAI.

The SPA proposes to end a \$150 per month payment to providers and replace it with a \$300 per month. Public notice was not published to rescind the previously approved, hence the RAI.

The RAI questions are attached for your reference.

Thanks,
Tammy

From: cmsinsight@cms.hhs.gov <cmsinsight@cms.hhs.gov>
Sent: Monday, March 27, 2023 2:06 PM
To: Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Subject: DRR NIRT NIPT Approval Workflow : Action Required - Technical Director Review : LA-23-0001R

Workflow Notification

Hello (Tamara Sampson),

The following submission item requires your review.

Primary for this task is i:0#.w|cms|m29q.
Backup for this task is .i:0#.w|cms\gre3

SPA Number	LA-23-0001R
State	LA
Action	RAI

Approval Comments

*Gary Knight (Move forward to DRR Director) 3/27/2023 11:46 AM - 3/27/2023 3:00 PM
(Gary Knight) The SPA proposes to end a \$150 per month payment to providers and replace it with a \$300 per month. Public notice was not published to rescind the previously approved, hence the RAI.*

Wendy Harrison (Not Required) 3/27/2023 11:46 AM -

*monica neiman (Move forward to Technical Director) 3/27/2023 11:40 AM - 3/27/2023 11:41 AM
(monica neiman)*

Jerica Bennett (No Package Updates are Required) 3/27/2023 11:30 AM - 3/27/2023 11:35 AM

Deborah Benson (No Package Updates are Required) 3/27/2023 11:30 AM - 3/27/2023 11:35 AM

Novena James-Hailey (No Package Updates are Required) 3/27/2023 11:30 AM - 3/27/2023 11:35 AM

james francis (No Package Updates are Required) 3/27/2023 11:30 AM - 3/27/2023 11:35 AM

Robert Bromwell (No Package Updates are Required) 3/27/2023 11:30 AM - 3/27/2023 11:35 AM

monica neiman (No Package Updates are Required) 3/27/2023 11:30 AM - 3/27/2023 11:35 AM

Tom Caughey (No Package Updates are Required) 3/27/2023 11:30 AM - 3/27/2023 11:35 AM

Wendy Harrison (No Package Updates are Required) 3/27/2023 11:30 AM - 3/27/2023 11:35 AM

Blake Holt (No Package Updates are Required) 3/27/2023 11:30 AM - 3/27/2023 11:35 AM

matthew klein (No Package Updates are Required) 3/27/2023 11:30 AM - 3/27/2023 11:35 AM

kristina mack-webb (No Package Updates are Required) 3/27/2023 11:30 AM - 3/27/2023 11:35 AM

Lindsay Michael (No Package Updates are Required) 3/27/2023 11:30 AM - 3/27/2023 11:35 AM

James Moreth (No Package Updates are Required) 3/27/2023 11:30 AM - 3/27/2023 11:35 AM

Joseph Raymundo (No Package Updates are Required) 3/27/2023 11:30 AM - 3/27/2023 11:35 AM

Dickerman Sanford (No Package Updates are Required) 3/27/2023 11:30 AM - 3/27/2023 11:35 AM

Fredrick Sebree (No Package Updates are Required) 3/27/2023 11:30 AM - 3/27/2023 11:35 AM

Josh Smith (No Package Updates are Required) 3/27/2023 11:30 AM - 3/27/2023 11:35 AM

Douglas Spitler (No Package Updates are Required) 3/27/2023 11:30 AM - 3/27/2023 11:35 AM

Christine Storey (No Package Updates are Required) 3/27/2023 11:31 AM - 3/27/2023 11:35 AM

Mark Wong (No Package Updates are Required) 3/27/2023 11:31 AM - 3/27/2023 11:35 AM

Diana Dinh (No Package Updates are Required) 3/27/2023 11:31 AM - 3/27/2023 11:35 AM

Ysabel Gavino (No Package Updates are Required) 3/27/2023 11:31 AM - 3/27/2023 11:35 AM

Respond to this task indicating either:

- 1. Send forward to FMG Director / FMG SPA Coordinator**
- 2. Back to Technical Director for Update**(If you have comments/questions/edits)

Message

From: Knight, Gary [b(6)]
[b(6)]
Sent: 3/28/2023 9:13:54 PM
To: Sampson, Tamara (CMS/CMCS) [tamara.sampson@cms.hhs.gov]
CC: Mcmillion, Todd (CMS/CMCS) [todd.mcmillion@cms.hhs.gov]
Subject: Oregon tax issue and impact on pending SPAs for OGD consideration
Attachments: RE_ Oregon Hospital Tax .msg; Oregon Pending SPAs.xlsx

Recommendation for Oregon SPAs while tax waiver is being requested, reviewed, and negotiated/considered:

1. Treat Oregon SPAs consistent with those of New Hampshire and Rhode Island and issue approvals with conditional wording in the approval letter.
2. Issue an RAI asking Oregon to submit the necessary documentation to request a waiver of tax requirements. (the issue here is that responding to the RAI puts the tax team on a 90 day clock to review and approve the waiver)

Two Oregon SPAs with 90th day pending before April 15th in the attached Excel.

Additional details in the attached email string - Not expecting you to read through the email string – I can answer any questions, but attempting to summarize:

At issue seems to be an approved exemption for public hospitals, but two private facilities were excluded by Oregon in implementation of the tax. Oregon excludes a Long-Term Acute Care (LTAC) facility and a private mental health hospital from the tax assessment.

[b(5)]

Message

From: Knight, Gary (CMS/CMCS) [redacted] b(6)
[redacted] b(6)
Sent: 3/23/2023 5:25:31 PM
To: Vogel, Jeremy (HHS/OGC) [jeremy.vogel@hhs.gov]; Endelman (he/him), Jonathan (CMS/CMCS) [jonathan.endelman@cms.hhs.gov]; Moreth, James (CMS/CMCS) [james.moreth@cms.hhs.gov]; Snyder, Laura (CMS/CMCS) [laura.snyder1@cms.hhs.gov]
CC: Arnold, Charlie (CMS/CMCS) [charlie.arnold@cms.hhs.gov]; Clark, Jennifer (CMS/CMCS) [jennifer.clark@cms.hhs.gov]; Cuno, Richard (CMS/CMCS) [richard.cuno@cms.hhs.gov]; Fan, Kristin (CMS/CMCS) [kristin.fan@cms.hhs.gov]; Goldstein, Stuart (CMS/CMCS) [stuart.goldstein@cms.hhs.gov]; Heitt, Melissa (CMS/FCHCO) [melissa.heitt@cms.hhs.gov]; McClure, Deb (CMS/CMCS) [deborah.mcclure@cms.hhs.gov]; Mosley, Elle (CMS/CMCS) [larrica.mosley@cms.hhs.gov]; Schoonover, Matthew (CMS/CMCS) [matthew.schoonover@cms.hhs.gov]; Kosin, Donald (HHS/OGC) [donald.kosin@hhs.gov]; Dinh, Diana (CMS/CMCS) [diana.dinh@cms.hhs.gov]; Sampson, Tamara (CMS/CMCS) [tamara.sampson@cms.hhs.gov]
Subject: RE: RE: Oregon Hospital Tax

Hi Jeremy,

Sharing and adding that FMG has used a similar approach recently in New Hampshire and Rhode Island.

<https://www.medicaid.gov/medicaid/spa/downloads/NH-22-0050.pdf>

<https://www.medicaid.gov/medicaid/spa/downloads/RI-22-0018.pdf>

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Sent: Thursday, March 23, 2023 1:05 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

I will watch for an appointment. I am interested whether CMS would consider the SPAs approvable if it knows the state lacks a permissible source of non-federal share. I have seen disapprovals based on 1902(a)(2), where the state has failed to demonstrate it has an adequate source of non-federal share to support expenditures that would be authorized by the SPA.

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMSSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Thursday, March 23, 2023 12:16 PM
To: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS)

<Laura.Snyder1@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>

Subject: RE: Oregon Hospital Tax

Thanks James. I believe we could stop the clock if we asked them to submit a tax waiver, which I believe we should do. The question would be, "Can the State of Oregon please submit a new tax waiver that reflects the tax they are actually collecting?" That would be my recommendation.

I am not sure about qualifying language in the approval letter. We would probably need to take that to DFP and FMG leadership to weigh in. I will send out an appointment shortly to meet with Jeremy Vogel.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>

Sent: Thursday, March 23, 2023 11:45 AM

To: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>

Subject: RE: Oregon Hospital Tax

Hello Jeremy and Jonathan,

DRR would like to thank both of you for your comments on this matter. There are several OR SPAs which are rapidly approaching the 90th day. In the interest of time management, I would like to propose that we move forward with

approval of these pending SPAs with qualifying language in the approval letter requesting OR to submit a new tax waiver.

This approach would be consistent with how similar issues have been addressed with other states and follows the guidance from the CMS tax team “we do not believe that we can stop the clock with a request for additional information, other than to inform the State of Oregon that they need to submit a new tax waiver for this tax to reflect the tax that they are actually collecting and request that they do so. We believe that is probably the next step. If we tell them that, we don’t know if they will submit a new tax waiver or not.”

If OR does not choose to submit a new tax waiver as requested by CMS, this potential issue can be addressed at a later date that is more advantageous to CMS.

Please advise on the feasibility of this approach.

Thanks,
James

From: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Sent: Thursday, March 23, 2023 5:30 AM
To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Hi Jeremy,

Trving to keep up with the email: [redacted] b(5)
[redacted] b(5)

I ask because in the past: [redacted] b(5)
[redacted] b(5)

I would also note that: [redacted] b(5)
[redacted] b(5)

As Jonathan noted:

b(5)

b(5)

Thanks,
Laura

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>

Sent: Wednesday, March 22, 2023 2:38 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>

Subject: RE: Oregon Hospital Tax

b(5)

b(5)

This mismatch was pointed out by commenters on the 1992 IFC, as discussed in the final rule at 58 FR 43162 (Aug. 13, 1993):

Comment: Several commenters indicated that the definition of inpatient hospital services that we presented in, the preamble of the interim final rule is not correct. (In that definition, we noted that inpatient hospital services includes all services defined as inpatient hospital services, such as inpatient psychiatric services.) The commenters noted that in both section 1905(a) of the Act and in the Federal Medicaid regulations at §440.10, inpatient hospital services specifically excludes services furnished in free-standing psychiatric hospitals (referred to under Medicaid as institutions for the mental diseases (IMDs)). Two commenters requested that the regulations be clarified to state that psychiatric hospital services are included in the inpatient hospital services class. One commenter recommended that the classes be expanded to include psychiatric hospitals, hospitals owned by HMOs, and hospitals that do not charge for care.

Response: We believe inpatient hospital services encompass all services provided in an inpatient hospital setting, including psychiatric services. Consequently, we believe psychiatric hospital services need not be listed as a specific inpatient hospital service. However, we have revised the regulations to add psychiatric hospitals as a favorable exception under the waiver standards for the broad-based and uniform requirements in §§ 433.68(e)(1) and (e)(2).

b(5)

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 22, 2023 11:39 AM
To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Thanks Jeremy;

b(5)

b(5)

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Sent: Wednesday, March 22, 2023 11:04 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Adding Don Kosin.

Let's find time to discuss. In the meantime, can you explain a bit more what SPA(s) is (are) necessary in connection with this tax, which seems to support only SDPs that I wouldn't think should implicate a SPA?

Preliminarily, my thinking

b(5)

b(5)

b(5)

" I suppose there

b(5)

b(5)

It certainly looks like

b(5)

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMCSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 22, 2023 10:35 AM
To: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

Jeremy,

We had a legal questio

b(5)

b(5)

To date, we have asked three rounds of questions since that time

b(5)

b(5)

is from October 17, 2017, which has an effective date of January 1, 2018. In the tax waiver approval letter, the structure of the tax is described as follows:

- Public hospitals are excluded from both assessments
- Hospitals with more than fifty beds are taxed 6% of net inpatient revenues and 6% of net outpatient revenues
- All other hospitals are taxed at a rate of 4% of net inpatient revenues and 4% of net outpatient revenues

As you can see, the only hospitals that are listed in the approval letter as being excluded are public, i.e. governmental, local and/or state owned and operated hospitals.

On January 19, 2022, in the course of reviewing the funding sources of the non-federal share listed in the pre-print for a state-directed payment: **b(5)**

b(5)

On October 6, 2022 SDP, DMCP provided us the following year's version of the same pre-print so that we could review the financing. In the pre-print submission: **b(5)**

b(5) On November 21, 2022 CMS asked Oregon to please why Oregon did not consider the taxes to be broad-based and uniform. On December 13, 2022, Oregon stated, "Oregon also excludes a Long-Term Acute Care (LTAC) facility and a private mental health hospital from the tax. Therefore, it is deemed not broad-based and uniform." Neither Oregon's tax waiver request letter from July 19, 2017, nor the CMS approval letter from October 17, 2017 mentions either LTAC or psychiatric, mental health hospitals, or IMDs (institutions for mental disease) as being excluded from the assessment.

On February 28, 2023, we had a call with the State of Oregon in which we asked them to explain this apparent discrepancy between the tax they say that they are imposing and the waiver approval letter that we issued to them in 2017. On the call, Oregon responded by saying that they did not believe that these two facilities needed to be listed as excluded in the approved tax waivers for these taxes from CMS because they did not feel as though they provided inpatient hospital services or outpatient hospital services. Generally, **b(5)**

b(5)

b(5)

However,

b(5)

b(5)

b(5)

b(5) We promised the State of Oregon that we would send them the regulatory definitions for inpatient hospital services and outpatient hospital services and told them that we would ask them a series of questions designed to determine if these two hospitals provide inpatient hospital services and outpatient hospital services.

On March 10, 2023, we provided Oregon with the regulatory definitions found at 42 CFR 440.10 (a)(3)(i) and 42 CFR 440.20 (a)(4) for inpatient hospital services and outpatient hospital services respectively. We also asked them to please provide:

1. The lines of the CMS 64 in which they claim expenditures for the facilities in question
2. The state plan pages that govern the reimbursement for the facilities in question
3. The names of any other psych or rehab hospitals that are similarly situated i.e. are private hospitals that are excluded from the taxes.

On March 16, 2023, the State of Oregon responded to our questions. They stated that Cedar Hills had no Medicaid payments. VIBRA had payments under the Line 1A of the CMS-64, which is the line for "inpatient hospital regular payments." Both hospitals are reimbursed using state plan pages from 4.19 A, which is the section of the state plan used for inpatient hospital services. They also stated that VIBRA is the only LTAC hospital in Oregon and the only other psych hospital is Oregon State Hospital, which they don't need to tax because it's a state hospital. Plus their waiver lists "public hospitals" as clearly excluded from the tax.

We believe that

b(5)

b(5)

b(5)

Specifically, they state that because

the definition for inpatient hospital services excludes IMDs and Cedar Hills qualifies as an IMD, Cedar Hills does not provide inpatient hospital services.

b(5)

b(5)

Oregon also argued that these hospitals do not provide inpatient and outpatient hospital services because they do not provide services that are furnished in treating inpatients and outpatients respectively, which is part of the regulatory definitions for these services, they do not provide these services. We do not find these arguments convincing.

In addition, we found a state law from 2017 law that removes an exclusion from taxation under these taxes for, "a hospital that provides only psychiatric care or a hospital identified by the Department of Human Services as appropriate for inclusion in the application described in section 4, chapter 736, Oregon Laws 2003." We believe that the statement in

b(5)

The State of Oregon has stated that the facilities in question have never been included in these taxes.

Thank you. We look forward to hearing from you. If you would like to schedule a meeting to discuss please let us know. As we mentioned:

b(5)

b(5)

b(5)

We appreciate any assistance that you may be able to provide.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

Message

From: Knight, Gary (CMS/CMC) [b(6)]
[b(6)]
Sent: 3/28/2023 9:13:54 PM
To: Sampson, Tamara (CMS/CMCS) [b(6)]
[b(6)]
CC: Mcmillion, Todd (CMS/CMCS) [b(6)]
[b(6)]
Subject: Oregon tax issue and impact on pending SPAs for OGD consideration
Attachments: RE: RE: Oregon Hospital Tax ; Oregon Pending SPAs.xlsx

Recommendation for Oregon SPAs while tax waiver is being requested, reviewed, and negotiated/considered:

1. Treat Oregon SPAs consistent with those of New Hampshire and Rhode Island and issue approvals with conditional wording in the approval letter.
2. Issue an RAI asking Oregon to submit the necessary documentation to request a waiver of tax requirements. (the issue here is that responding to the RAI puts the tax team on a 90 day clock to review and approve the waiver)

Two Oregon SPAs with 90th day pending before April 15th in the attached Excel.

Additional details in the attached email string - Not expecting you to read through the email string – I can answer any questions, but attempting to summarize:

At issue seems to be an approved exemption for public hospitals, but two private facilities were excluded by Oregon in implementation of the tax. Oregon excludes a Long-Term Acute Care (LTAC) facility and a private mental health hospital from the tax assessment.

[b(5)]

Message

From: Knight, Gary (CMS/CMCS) [redacted] **b(6)**
[redacted] **b(6)**
Sent: 3/23/2023 5:25:31 PM
To: Vogel, Jeremy (HHS/OGC) [jeremy.vogel@hhs.gov]; Endelman (he/him), Jonathan (CMS/CMCS) [jonathan.endelman@cms.hhs.gov]; Moreth, James (CMS/CMCS) [james.moreth@cms.hhs.gov]; Snyder, Laura (CMS/CMCS) [laura.snyder1@cms.hhs.gov]
CC: Arnold, Charlie (CMS/CMCS) [charlie.arnold@cms.hhs.gov]; Clark, Jennifer (CMS/CMCS) [jennifer.clark@cms.hhs.gov]; Cuno, Richard (CMS/CMCS) [richard.cuno@cms.hhs.gov]; Fan, Kristin (CMS/CMCS) [kristin.fan@cms.hhs.gov]; Goldstein, Stuart (CMS/CMCS) [stuart.goldstein@cms.hhs.gov]; Heitt, Melissa (CMS/FCHCO) [melissa.heitt@cms.hhs.gov]; McClure, Deb (CMS/CMCS) [deborah.mcclure@cms.hhs.gov]; Mosley, Elle (CMS/CMCS) [larrica.mosley@cms.hhs.gov]; Schoonover, Matthew (CMS/CMCS) [matthew.schoonover@cms.hhs.gov]; Kosin, Donald (HHS/OGC) [donald.kosin@hhs.gov]; Dinh, Diana (CMS/CMCS) [diana.dinh@cms.hhs.gov]; Sampson, Tamara (CMS/CMCS) [tamara.sampson@cms.hhs.gov]
Subject: RE: RE: Oregon Hospital Tax

Hi Jeremy,

Sharing and adding that FMG has used a similar approach recently in New Hampshire and Rhode Island.

<https://www.medicaid.gov/medicaid/spa/downloads/NH-22-0050.pdf>

<https://www.medicaid.gov/medicaid/spa/downloads/RI-22-0018.pdf>

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Sent: Thursday, March 23, 2023 1:05 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

I will watch for an appointment. I am interested whether CMS would consider the SPAs approvable if it knows the state lacks a permissible source of non-federal share. I have seen disapprovals based on 1902(a)(2), where the state has failed to demonstrate it has an adequate source of non-federal share to support expenditures that would be authorized by the SPA.

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMDS
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Thursday, March 23, 2023 12:16 PM
To: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS)

<Laura.Snyder1@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>

Subject: RE: Oregon Hospital Tax

Thanks James. I believe we could stop the clock if we asked them to submit a tax waiver, which I believe we should do. The question would be, "Can the State of Oregon please submit a new tax waiver that reflects the tax they are actually collecting?" That would be my recommendation.

I am not sure about qualifying language in the approval letter. We would probably need to take that to DFP and FMG leadership to weigh in. I will send out an appointment shortly to meet with Jeremy Vogel.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>

Sent: Thursday, March 23, 2023 11:45 AM

To: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>

Subject: RE: Oregon Hospital Tax

Hello Jeremy and Jonathan,

DRR would like to thank both of you for your comments on this matter. There are several OR SPAs which are rapidly approaching the 90th day. In the interest of time management, I would like to propose that we move forward with

approval of these pending SPAs with qualifying language in the approval letter requesting OR to submit a new tax waiver.

This approach would be consistent with how similar issues have been addressed with other states and follows the guidance from the CMS tax team “we do not believe that we can stop the clock with a request for additional information, other than to inform the State of Oregon that they need to submit a new tax waiver for this tax to reflect the tax that they are actually collecting and request that they do so. We believe that is probably the next step. If we tell them that, we don’t know if they will submit a new tax waiver or not.”

If OR does not choose to submit a new tax waiver as requested by CMS, this potential issue can be addressed at a later date that is more advantageous to CMS.

Please advise on the feasibility of this approach.

Thanks,
James

From: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Sent: Thursday, March 23, 2023 5:30 AM
To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Hi Jeremy,

Trying to keep up with the email:

b(5)

b(5)

I ask because in the past:

b(5)

b(5)

I would also note that:

b(5)

b(5)

As Jonathan noted

b(5)

b(5)

Thanks,
Laura

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>

Sent: Wednesday, March 22, 2023 2:38 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>

Subject: RE: Oregon Hospital Tax

b(5)

b(5)

This mismatch was pointed out by commenters on the 1992 IFC, as discussed in the final rule at 58 FR 43162 (Aug. 13, 1993):

Comment: Several commenters indicated that the definition of inpatient hospital services that we presented in, the preamble of the interim final rule is not correct. (In that definition, we noted that inpatient hospital services includes all services defined as inpatient hospital services, such as inpatient psychiatric services.) The commenters noted that in both section 1905(a) of the Act and in the Federal Medicaid regulations at §440.10, inpatient hospital services specifically excludes services furnished in free-standing psychiatric hospitals (referred to under Medicaid as institutions for the mental diseases (IMDs)). Two commenters requested that the regulations be clarified to state that psychiatric hospital services are included in the inpatient hospital services class. One commenter recommended that the classes be expanded to include psychiatric hospitals, hospitals owned by HMOs, and hospitals that do not charge for care.

Response: We believe inpatient hospital services encompass all services provided in an inpatient hospital setting, including psychiatric services. Consequently, we believe psychiatric hospital services need not be listed as a specific inpatient hospital service. However, we have revised the regulations to add psychiatric hospitals as a favorable exception under the waiver standards for the broad-based and uniform requirements in §§ 433.68(e)(1) and (e)(2).

b(5)

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 22, 2023 11:39 AM
To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Thanks Jeremy

b(5)

b(5)

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Sent: Wednesday, March 22, 2023 11:04 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Adding Don Kosin.

Let's find time to discuss. In the meantime, can you explain a bit more what SPA(s) is (are) necessary in connection with this tax

b(5)

Preliminary mv thinking

b(5)

b(5)

b(5)

I suppose there is

b(5)

b(5)

It certainly looks like

b(5)

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMCSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 22, 2023 10:35 AM
To: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

Jeremy,

We had a legal question

b(5)

b(5)

To date, we have asked three rounds of questions since that time

b(5)

b(5)

is from October 17, 2017, which has an effective date of January 1, 2018. In the tax waiver approval letter, the structure of the tax is described as follows:

- Public hospitals are excluded from both assessments
- Hospitals with more than fifty beds are taxed 6% of net inpatient revenues and 6% of net outpatient revenues
- All other hospitals are taxed at a rate of 4% of net inpatient revenues and 4% of net outpatient revenues

As you can see, the only hospitals that are listed in the approval letter as being excluded are public, i.e. governmental, local and/or state owned and operated hospitals.

On January 19, 2022, in the course of reviewing the funding sources of the non-federal share listed in the pre-print for a state-directed payment **b(5)**

b(5)

On October 6, 2022 SDP, DMCP provided us the following year's version of the same pre-print so that we could review the financing. In the pre-print submission **b(5)**

b(5) On November 21, 2022 CMS asked Oregon to please why Oregon did not consider the taxes to be broad-based and uniform. On December 13, 2022, Oregon stated, "Oregon also excludes a Long-Term Acute Care (LTAC) facility and a private mental health hospital from the tax. Therefore, it is deemed not broad-based and uniform." Neither Oregon's tax waiver request letter from July 19, 2017, nor the CMS approval letter from October 17, 2017 mentions either LTAC or psychiatric, mental health hospitals, or IMDs (institutions for mental disease) as being excluded from the assessment.

On February 28, 2023, we had a call with the State of Oregon in which we asked them to explain this apparent discrepancy between the tax they say that they are imposing and the waiver approval letter that we issued to them in 2017. On the call, Oregon responded by saying that they did not believe that these two facilities needed to be listed as excluded in the approved tax waivers for these taxes from CMS because they did not feel as though they provided inpatient hospital services or outpatient hospital services. Generally, we are **b(5)**

b(5)

b(5)

However,

b(5)

b(5)

b(5)

We promised the State of Oregon that we would send them the regulatory definitions for inpatient hospital services and outpatient hospital services and told them that we would ask them a series of questions designed to determine if these two hospitals provide inpatient hospital services and outpatient hospital services.

On March 10, 2023, we provided Oregon with the regulatory definitions found at 42 CFR 440.10 (a)(3)(i) and 42 CFR 440.20 (a)(4) for inpatient hospital services and outpatient hospital services respectively. We also asked them to please provide:

1. The lines of the CMS 64 in which they claim expenditures for the facilities in question
2. The state plan pages that govern the reimbursement for the facilities in question
3. The names of any other psych or rehab hospitals that are similarly situated i.e. are private hospitals that are excluded from the taxes.

On March 16, 2023, the State of Oregon responded to our questions. They stated that Cedar Hills had no Medicaid payments. VIBRA had payments under the Line 1A of the CMS-64, which is the line for "inpatient hospital regular payments." Both hospitals are reimbursed using state plan pages from 4.19 A, which is the section of the state plan used for inpatient hospital services. They also stated that VIBRA is the only LTAC hospital in Oregon and the only other psych hospital is Oregon State Hospital, which they don't need to tax because it's a state hospital. Plus their waiver lists "public hospitals" as clearly excluded from the tax.

We believe that

b(5)

b(5)

b(5)

Specifically, they state that because

the definition for inpatient hospital services excludes IMDs and Cedar Hills qualifies as an IMD, Cedar Hills does not provide inpatient hospital services

b(5)

b(5)

Oregon also argued that these hospitals do not provide inpatient and outpatient hospital services because they do not provide services that are furnished in treating inpatients and outpatients respectively, which is part of the regulatory definitions for these services, they do not provide these services. We do not find these arguments convincing.

In addition, we found a state law from 2017 law that removes an exclusion from taxation under these taxes for, "a hospital that provides only psychiatric care or a hospital identified by the Department of Human Services as appropriate for inclusion in the application described in section 4, chapter 736, Oregon Laws 2003." We believe that the statement in

b(5)

The State of Oregon has stated that the facilities in question have never been included in these taxes.

Thank you. We look forward to hearing from you. If you would like to schedule a meeting to discuss please let us know.

As we mentioned:

b(5)

b(5)

b(5)

We appreciate any assistance that you may be able to provide.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

Message

From: Knight, Gary (CMS/CMCS); [REDACTED] **b(6)**
[REDACTED] **b(6)**
Sent: 3/23/2023 5:25:31 PM
To: Vogel, Jeremy (HHS/OGC); [REDACTED] **b(6)**

CC: [REDACTED] Endelman (he/him),
[REDACTED] Moreth, James
[REDACTED] Snyder, Laura
[REDACTED] Clark, Jennifer
[REDACTED] Cuno, Richard
[REDACTED] Fan, Kristin
[REDACTED] Goldstein, Stuart
[REDACTED] Heitt, Melissa
[REDACTED] McClure, Deb
[REDACTED]]; Mosley, Elle
[REDACTED] choonover, Matthew
[REDACTED] Kosin, Donald
[REDACTED] Dinh, Diana
[REDACTED] Sampson, Tamara

Subject: RE: RE: Oregon Hospital Tax

b(6)

Hi Jeremy,

Sharing and adding that FMG has used a similar approach recently in New Hampshire and Rhode Island.

<https://www.medicaid.gov/medicaid/spa/downloads/NH-22-0050.pdf>

<https://www.medicaid.gov/medicaid/spa/downloads/RI-22-0018.pdf>

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Sent: Thursday, March 23, 2023 1:05 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>;

Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

I will watch for an appointment. I am interested whether CMS would consider the SPAs approvable if it knows the state lacks a permissible source of non-federal share. I have seen disapprovals based on 1902(a)(2), where the state has failed to demonstrate it has an adequate source of non-federal share to support expenditures that would be authorized by the SPA.

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Thursday, March 23, 2023 12:16 PM
To: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

Thanks James. I believe we could stop the clock if we asked them to submit a tax waiver, which I believe we should do. The question would be, "Can the State of Oregon please submit a new tax waiver that reflects the tax they are actually collecting?" That would be my recommendation.

I am not sure about qualifying language in the approval letter. We would probably need to take that to DFP and FMG leadership to weigh in. I will send out an appointment shortly to meet with Jeremy Vogel.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>
Sent: Thursday, March 23, 2023 11:45 AM
To: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

Hello Jeremy and Jonathan,

DRR would like to thank both of you for your comments on this matter. There are several OR SPAs which are rapidly approaching the 90th day. In the interest of time management, I would like to propose that we move forward with approval of these pending SPAs with qualifying language in the approval letter requesting OR to submit a new tax waiver.

This approach would be consistent with how similar issues have been addressed with other states and follows the guidance from the CMS tax team “we do not believe that we can stop the clock with a request for additional information, other than to inform the State of Oregon that they need to submit a new tax waiver for this tax to reflect the tax that they are actually collecting and request that they do so. We believe that is probably the next step. If we tell them that, we don’t know if they will submit a new tax waiver or not.”

If OR does not choose to submit a new tax waiver as requested by CMS, this potential issue can be addressed at a later date that is more advantageous to CMS.

Please advise on the feasibility of this approach.

Thanks,
James

From: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Sent: Thursday, March 23, 2023 5:30 AM
To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Hi Jeremy,

b(5)

I ask because in the past,

b(5)

b(5)

I would also note that

b(5)

b(5)

As Jonathan noted:

b(5)

b(5)

Thanks,
Laura

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>

Sent: Wednesday, March 22, 2023 2:38 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS)

<STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>

Subject: RE: Oregon Hospital Tax

b(5)

b(5)

This mismatch was pointed out by commenters on the 1992 IFC, as discussed in the final rule at 58 FR 43162 (Aug. 13, 1993):

Comment: Several commenters indicated that the definition of inpatient hospital services that we presented in, the preamble of the interim final rule is not correct. (In that definition, we noted that inpatient hospital services includes all services defined as inpatient hospital services, such as inpatient psychiatric services.) The commenters noted that in both section 1905(a) of the Act and in the Federal Medicaid regulations at §440.10, inpatient hospital services specifically excludes services furnished in free-standing psychiatric hospitals (referred

to under Medicaid as institutions for the mental diseases (IMDs)). Two commenters requested that the regulations be clarified to state that psychiatric hospital services are included in the inpatient hospital services class. One commenter recommended that the classes be expanded to include psychiatric hospitals, hospitals owned by HMOs, and hospitals that do not charge for care.

Response: We believe inpatient hospital services encompass all services provided in an inpatient hospital setting, including psychiatric services. Consequently, we believe psychiatric hospital services need not be listed as a specific inpatient hospital service. However, we have revised the regulations to add psychiatric hospitals as a favorable exception under the waiver standards for the broad-based and uniform requirements in §§ 433.68(e)(1) and (e)(2).

b(5)

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMSSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 22, 2023 11:39 AM
To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Thanks Jeremy,

b(5)

b(5)

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Sent: Wednesday, March 22, 2023 11:04 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Adding Don Kosin.

Let's find time to discuss. In the meantime, can you explain a bit more what SPA(s) is (are) necessary in connection with this tax [redacted b(5)]

Preliminarily, my thinking:

[redacted b(5)]

[redacted b(5)]

[redacted b(5)]

I suppose there is an argument that this section

[redacted b(5)]

It certainly looks like the

[redacted b(5)]

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMCSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 22, 2023 10:35 AM
To: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

Jeremy,

We had a legal question:

[redacted b(5)]

[redacted b(5)]

b(5)

To date, we have asked three rounds of questions since that time. Hi **b(5)**

b(5)

is from October 17, 2017, which has an effective date of January 1, 2018. In the tax waiver approval letter, the structure of the tax is described as follows:

- Public hospitals are excluded from both assessments
- Hospitals with more than fifty beds are taxed 6% of net inpatient revenues and 6% of net outpatient revenues
- All other hospitals are taxed at a rate of 4% of net inpatient revenues and 4% of net outpatient revenues

As you can see, the only hospitals that are listed in the approval letter as being excluded are public, i.e. governmental, local and/or state owned and operated hospitals.

On January 19, 2022, in the course of reviewing the funding sources of the non-federal share listed in the pre-print for a state-directed payment **b(5)**

b(5)

On October 6, 2022 SDP, DMCP provided us the following year's version of the same pre-print so that we could review the financing. In the pre-print submission **b(5)**

b(5) On November 21, 2022 CMS asked Oregon to please why **b(5)**

b(5) On December 13, 2022, Oregon stated, **b(5)**

b(5)

b(5) Neither Oregon's tax waiver request letter from July 19, 2017, nor the CMS approval letter from October 17, 2017 mentions either LTAC or psychiatric, mental health hospitals, or IMDs (institutions for mental disease) as being excluded from the assessment.

On February 28, 2023, we had a call with the State of Oregon **b(5)**

b(5)

b(5) On the call, Oregon responded **b(5)**

b(5)

b(5)

Generally, we are **b(5)**

b(5)

b(5)

However, **b(5)**

b(5)

b(5)

On March 10, 2023, we provided Oregon with the regulatory definitions found at 42 CFR 440.10 (a)(3)(i) and 42 CFR 440.20 (a)(4) for inpatient hospital services and outpatient hospital services respectively. We also asked them to please provide:

1. The lines of the CMS 64 in which they claim expenditures for the facilities in question
2. The state plan pages that govern the reimbursement for the facilities in question
3. The names of any other psych or rehab hospitals that are similarly situated i.e. are private hospitals that are excluded from the taxes.

On March 16, 2023, the State of Oregon responded to our questions.

b(5)

b(5)

b(5)

They also stated that

b(5)

b(5)

We believe that

b(5)

b(5)

b(5)

In addition, we found a state law from 2017 law that removes an exclusion from taxation under these taxes for, "a hospital that provides only psychiatric care or a hospital identified by the Department of Human Services as appropriate for inclusion in the application described in section 4, chapter 736, Oregon Laws 2003." We believe that the statement in

b(5)

We believe that the

b(5)

b(5)

Thank you. We look forward to hearing from you. If you would like to schedule a meeting to discuss please let us know.
As we mentioned:

b(5)

b(5)

b(5)

We appreciate any assistance that you may be able to provide.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

Message

From: Thompson, Christopher (CMS/CMCS); [REDACTED] b(6)
[REDACTED] b(6)
Sent: 3/29/2023 10:12:42 PM
To: Howe, Rory (CMS/CMCS); [REDACTED] b(6)
[REDACTED] b(6) Manskis, Jeremy
[REDACTED] b(6) Maccarroll, Amber
CC: Samson, Tamara (CMS/CMCS); [REDACTED] Exchange Admins; [REDACTED] Exchange Administrative Group
[REDACTED] b(6) Mcmillion, Todd
[REDACTED] b(6) Badaracco, Andrew
Subject: DRR/DRP 4-on-3 Meeting - 3/30/23
Attachments: NY DISAPPROVAL DOCUMENTS - bonus payment SPAs NY-22-0069, 22-0070, and 22-0071; Oregon tax issue and impact on pending SPAs for OGD consideration

DRP Items: DRP Items:

- **DMCP SOP Request –DMCP Coordination:**
- **DSG’s presentation on DSH/UPL/GME payment tracking in TMSIS**
- **SBS TAC- Report to Congress:** The BSCA legislation requires CMS to issue a report to congress 2 years after the creation of the TAC to quantify the impact that the TAC made. We’ve heard that Congress requested weekly updates on TAC progress? Are these requests applicable to pre-TAC implementation or does Congress want frequent (weekly/monthly) progress reports once the TAC is up and running. If the latter, we will need to amend to the TAC SOW to account for contractor assistance in creating these reports.

Reminders: None

DRR Items:

- NY Bonus payment SPAs 45th day is 4/1: DRR is working on Disapproval Packages and Briefing Paper; FMG/OGD needs the disapproval packages by COB Tuesday 3/28. Please see attached email with disapproval package and other documents.
- New York calls – DRR staff waiting for an agenda from NY State staff
 - New York – prep call UPL 03/30 at 8:30am (CT)
 - New York – call UPL 04/03 at 7am (CT) with HH CFO and State staff
- Oregon – NIPT 23-0002(90th day April 4) and DR 23-0005 (April 11) SPA-tax issue – conditional language in the approval letter similar to RI and NH. This impacts 4 pending Oregon SPAs. Please see Gary’s email for more details.

Recommendation for Oregon SPAs while tax waiver is being requested, reviewed, and negotiated/considered:

1. Treat Oregon SPAs consistent with those of New Hampshire and Rhode Island and issue approvals with conditional wording in the approval letter.
2. Issue an RAI asking Oregon to submit the necessary documentation to request a waiver of tax requirements. (the issue here is that responding to the RAI puts the tax team on a 90 day clock to review and approve the waiver)

Two Oregon SPAs with 90th day pending before April 15th in the attached Excel.

Additional details in the attached email string - Not expecting you to read through the email string – I can answer any questions, but attempting to summarize:

At issue seems to be an approved exemption for public hospitals, but two private facilities were excluded by Oregon in implementation of the tax. Oregon excludes a Long-Term Acute Care (LTAC) facility and a private mental health hospital from the tax assessment.

b(5)

- Revised DSH Acknowledgement Letter: 3/21-Rory was going to take another look at the language...need to know if OK?

Message

From: Sampson, Tamara (CMS/CMCS) [redacted] b(6)
[redacted] b(6)
Sent: 3/28/2023 3:56:25 PM
To: Silanskis, Jeremy (CMS/CMCS) [jeremy.silanskis@cms.hhs.gov]; Maccarroll, Amber (CMS/CMCS) [amber.maccarroll@cms.hhs.gov]; Thompson, Christopher (CMS/CMCS) [christopher.thompson@cms.hhs.gov]; Badaracco, Andrew (CMS/CMCS) [andrew.badaracco@cms.hhs.gov]; adams, lia (CMS/CMCS) [lia.adams@cms.hhs.gov]
CC: Howe, Rory (CMS/CMCS) [rory.howe@cms.hhs.gov]; Knight, Gary (CMS/CMCS) [gary.knight@cms.hhs.gov]; Mcmillion, Todd (CMS/CMCS) [todd.mcmillion@cms.hhs.gov]; Harrison, Wendy (CMS/CMCS) [wendy.harrison@cms.hhs.gov]; bennett, jerica (CMS/CMCS) [jerica.bennett@cms.hhs.gov]; Francis, James (CMS/CMCS) [james.francis@cms.hhs.gov]; Mack, Kristina (CMS/CMCS) [kristina.mack-webb@cms.hhs.gov]; Sanford, Dickerman (CMS/CMCS) [dickerman.sanford@cms.hhs.gov]; James-Hailey, Novena (CMS/CMCS) [novena.jameshailey@cms.hhs.gov]; Boston, Beverly (CMS/CMCS) [beverly.boston@cms.hhs.gov]
Subject: NY DISAPPROVAL DOCUMENTS - bonus payment SPAs NY-22-0069, 22-0070, and 22-0071
Attachments: New York SPAs Final Disapproval Agenda.docx; NY Final Disapproval Letter.docx; NY CMS Final Disapproval Memo.docx; NY SPAs Final Disapproval Q & A.docx
Flag: Follow up

Good Morning,

Attached is the disapproval package for the New York bonus payment SPAs (22-0069, 22-0070, and 22-0071).

The 45th day is April 1.

Do you want these document and a blurb to be uploaded to the Wednesday FMG clearance call?

Thanks,
Tammy

From: bennett, jerica (CMS/CMCS) <Jerica.Bennett@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 10:46 AM
To: Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Cc: James-Hailey, Novena (CMS/CMCS) <novena.jameshailey@cms.hhs.gov>; Bromwell, Robert (CMS/CMCS) <Robert.Bromwell@cms.hhs.gov>; James-Hailey, Novena (CMS/CMCS) <novena.jameshailey@cms.hhs.gov>; Mack, Kristina (CMS/CMCS) <Kristina.Mack-Webb@cms.hhs.gov>
Subject: FINAL NY DISAPPROVAL DOCUMENTS

OK! Last revisions, sorry for the back and forth. These are good to go!

Message

From: Knight, Gary (CMS/CMCS) [redacted] b(6)
[redacted] b(6)
Sent: 3/28/2023 9:13:54 PM
To: Sampson, Tamara (CMS/CMCS) [tamara.sampson@cms.hhs.gov]
CC: Mcmillion, Todd (CMS/CMCS) [todd.mcmillion@cms.hhs.gov]
Subject: Oregon tax issue and impact on pending SPAs for OGD consideration
Attachments: RE_ Oregon Hospital Tax .msg; Oregon Pending SPAs.xlsx

Recommendation for Oregon SPAs while tax waiver is being requested, reviewed, and negotiated/considered:

1. Treat Oregon SPAs consistent with those of New Hampshire and Rhode Island and issue approvals with conditional wording in the approval letter.
2. Issue an RAI asking Oregon to submit the necessary documentation to request a waiver of tax requirements. (the issue here is that responding to the RAI puts the tax team on a 90 day clock to review and approve the waiver)

Two Oregon SPAs with 90th day pending before April 15th in the attached Excel.

Additional details in the attached email string - Not expecting you to read through the email string – I can answer any questions, but attempting to summarize:

At issue seems to be an approved exemption for public hospitals, but two private facilities were excluded by Oregon in implementation of the tax. Oregon excludes a Long-Term Acute Care (LTAC) facility and a private mental health hospital from the tax assessment.

[redacted] b(5)

Message

From: Knight, Gary (CMS/CMCS) [redacted] b(6)
[redacted] b(6)
Sent: 3/23/2023 5:25:31 PM
To: Vogel, Jeremy (HHS/OGC) [jeremy.vogel@hhs.gov]; Endelman (he/him), Jonathan (CMS/CMCS) [jonathan.endelman@cms.hhs.gov]; Moreth, James (CMS/CMCS) [james.moreth@cms.hhs.gov]; Snyder, Laura (CMS/CMCS) [laura.snyder1@cms.hhs.gov]
CC: Arnold, Charlie (CMS/CMCS) [charlie.arnold@cms.hhs.gov]; Clark, Jennifer (CMS/CMCS) [jennifer.clark@cms.hhs.gov]; Cuno, Richard (CMS/CMCS) [richard.cuno@cms.hhs.gov]; Fan, Kristin (CMS/CMCS) [kristin.fan@cms.hhs.gov]; Goldstein, Stuart (CMS/CMCS) [stuart.goldstein@cms.hhs.gov]; Heitt, Melissa (CMS/FCHCO) [melissa.heitt@cms.hhs.gov]; McClure, Deb (CMS/CMCS) [deborah.mcclure@cms.hhs.gov]; Mosley, Elle (CMS/CMCS) [larrica.mosley@cms.hhs.gov]; Schoonover, Matthew (CMS/CMCS) [matthew.schoonover@cms.hhs.gov]; Kosin, Donald (HHS/OGC) [donald.kosin@hhs.gov]; Dinh, Diana (CMS/CMCS) [diana.dinh@cms.hhs.gov]; Sampson, Tamara (CMS/CMCS) [tamara.sampson@cms.hhs.gov]
Subject: RE: RE: Oregon Hospital Tax

Hi Jeremy,

Sharing and adding that FMG has used a similar approach recently in New Hampshire and Rhode Island.

<https://www.medicaid.gov/medicaid/spa/downloads/NH-22-0050.pdf>

<https://www.medicaid.gov/medicaid/spa/downloads/RI-22-0018.pdf>

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Sent: Thursday, March 23, 2023 1:05 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

I will watch for an appointment. I am interested whether CMS would consider the SPAs approvable if it knows the state lacks a permissible source of non-federal share. I have seen disapprovals based on 1902(a)(2), where the state has failed to demonstrate it has an adequate source of non-federal share to support expenditures that would be authorized by the SPA.

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMDS
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Thursday, March 23, 2023 12:16 PM
To: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS)

<Laura.Snyder1@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>

Subject: RE: Oregon Hospital Tax

Thanks James. I believe we could stop the clock if we asked them to submit a tax waiver, which I believe we should do. The question would be, "Can the State of Oregon please submit a new tax waiver that reflects the tax they are actually collecting?" That would be my recommendation.

I am not sure about qualifying language in the approval letter. We would probably need to take that to DFP and FMG leadership to weigh in. I will send out an appointment shortly to meet with Jeremy Vogel.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>

Sent: Thursday, March 23, 2023 11:45 AM

To: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>

Subject: RE: Oregon Hospital Tax

Hello Jeremy and Jonathan,

DRR would like to thank both of you for your comments on this matter. There are several OR SPAs which are rapidly approaching the 90th day. In the interest of time management, I would like to propose that we move forward with

approval of these pending SPAs with qualifying language in the approval letter requesting OR to submit a new tax waiver.

This approach would be consistent with how similar issues have been addressed with other states and follows the guidance from the CMS tax team “we do not believe that we can stop the clock with a request for additional information, other than to inform the State of Oregon that they need to submit a new tax waiver for this tax to reflect the tax that they are actually collecting and request that they do so. We believe that is probably the next step. If we tell them that, we don’t know if they will submit a new tax waiver or not.”

If OR does not choose to submit a new tax waiver as requested by CMS, this potential issue can be addressed at a later date that is more advantageous to CMS.

Please advise on the feasibility of this approach.

Thanks,
James

From: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Sent: Thursday, March 23, 2023 5:30 AM
To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Hi Jeremy,

Trying to keep up with the email,

b(5)

b(5)

I ask because in the past

b(5)

b(5)

I would also note tha

b(5)

b(5)

As Jonathan noted,

b(5)

b(5)

Thanks,
Laura

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>

Sent: Wednesday, March 22, 2023 2:38 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>

Subject: RE: Oregon Hospital Tax

b(5)

b(5)

This mismatch was pointed out by commenters on the 1992 IFC, as discussed in the final rule at 58 FR 43162 (Aug. 13, 1993):

Comment: Several commenters indicated that the definition of inpatient hospital services that we presented in, the preamble of the interim final rule is not correct. (In that definition, we noted that inpatient hospital services includes all services defined as inpatient hospital services, such as inpatient psychiatric services.) The commenters noted that in both section 1905(a) of the Act and in the Federal Medicaid regulations at §440.10, inpatient hospital services specifically excludes services furnished in free-standing psychiatric hospitals (referred to under Medicaid as institutions for the mental diseases (IMDs)). Two commenters requested that the regulations be clarified to state that psychiatric hospital services are included in the inpatient hospital services class. One commenter recommended that the classes be expanded to include psychiatric hospitals, hospitals owned by HMOs, and hospitals that do not charge for care.

Response: We believe inpatient hospital services encompass all services provided in an inpatient hospital setting, including psychiatric services. Consequently, we believe psychiatric hospital services need not be listed as a specific inpatient hospital service. However, we have revised the regulations to add psychiatric hospitals as a favorable exception under the waiver standards for the broad-based and uniform requirements in §§ 433.68(e)(1) and (e)(2).

b(5)

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 22, 2023 11:39 AM
To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Thanks Jeremy;

b(5)

b(5)

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Sent: Wednesday, March 22, 2023 11:04 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Adding Don Kosin.

Let's find time to discuss. In the meantime, can you explain a bit more what SPA(s) is (are) necessary in connection with this tax

b(5)

Preliminarily, my thinking

b(5)

b(5)

It certainly looks like

b(5)

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 22, 2023 10:35 AM
To: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

Jeremy,

We had a legal question

b(5)

b(5)

To date, we have asked three rounds of questions since that time:

b(5)

b(5)

- Public hospitals are excluded from both assessments
- Hospitals with more than fifty beds are taxed 6% of net inpatient revenues and 6% of net outpatient revenues
- All other hospitals are taxed at a rate of 4% of net inpatient revenues and 4% of net outpatient revenues

As you can see, the only hospitals that are listed in the approval letter as being excluded are public, i.e. governmental, local and/or state owned and operated hospitals.

On January 19, 2022, in the course of reviewing the funding sources of the non-federal share listed in the pre-print for a state-directed payment: **b(5)**

b(5)

On October 6, 2022 SDP, DMCP provided us the following year's version of the same pre-print so that we could review the financing. In the pre-print submission, however, we were surprised to see that the State of Oregon stated that the

b(5)

On February 29, 2023, we had a call with the State of Oregon **b(5)**

b(5)

b(5) On the call, Oregon

b(5)

b(5)

b(5)

Generally, we are

b(5)

b(5)

b(5)

However

b(5)

b(5)

On March 10, 2023, we provided Oregon with the regulatory definitions found at 42 CFR 440.10 (a)(3)(i) and 42 CFR 440.20 (a)(4) for inpatient hospital services and outpatient hospital services respectively. We also asked them to please provide:

1. The lines of the CMS 64 in which they claim expenditures for the facilities in question
2. The state plan pages that govern the reimbursement for the facilities in question
3. The names of any other psych or rehab hospitals that are similarly situated i.e. are private hospitals that are excluded from the taxes.

On March 16, 2023, the State of Oregon responded to our questions. They stated

b(5)

b(5)

b(5)

they also stated that

b(5)

b(5)

We believe that

b(5)

b(5)

b(5)

In addition, we found a state law from 2017 law that removes an exclusion from taxation under these taxes for, “a hospital that provides only psychiatric care or a hospital identified by the Department of Human Services as appropriate for inclusion in the application described in section 4, chapter 736, Oregon Laws 2003.” We believe that the statement in

b(5)

We believe that the

b(5)

b(5)

Thank you. We look forward to hearing from you. If you would like to schedule a meeting to discuss please let us know.

As we mentioned

b(5)

b(5)

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

Message

From: Knight, Gary (CMS/CMCS) [redacted] b(6)
[redacted] b(6)
Sent: 3/28/2023 9:13:54 PM
To: Sampson, Tamara (CMS/CMCS) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a18ff5cb79c34a39b5b37cad49589f78-tamara.samp]
CC: Mcmillion, Todd (CMS/CMCS) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e571a7e9af6d43839d6a46398c0e6702-todd.mcmill]
Subject: Oregon tax issue and impact on pending SPAs for OGD consideration
Attachments: RE: RE: Oregon Hospital Tax ; Oregon Pending SPAs.xlsx

Recommendation for Oregon SPAs while tax waiver is being requested, reviewed, and negotiated/considered:

1. Treat Oregon SPAs consistent with those of New Hampshire and Rhode Island and issue approvals with conditional wording in the approval letter.
2. Issue an RAI asking Oregon to submit the necessary documentation to request a waiver of tax requirements. (the issue here is that responding to the RAI puts the tax team on a 90 day clock to review and approve the waiver)

Two Oregon SPAs with 90th day pending before April 15th in the attached Excel.

Additional details in the attached email string - Not expecting you to read through the email string – I can answer any questions, but attempting to summarize:

At issue seems to be an approved exemption for public hospitals, but two private facilities were excluded by Oregon in implementation of the tax. Oregon excludes a Long-Term Acute Care (LTAC) facility and a private mental health hospital from the tax assessment.

[redacted] b(5)

Message

From: Knight, Gary (CMS/CMCS) [redacted] **b(6)**
[redacted] b(6)

Sent: 3/23/2023 5:25:31 PM

To: Vogel, Jeremy (HHS/OGC) [jeremy.vogel@hhs.gov]; Endelman (he/him), Jonathan (CMS/CMCS) [jonathan.endelman@cms.hhs.gov]; Moreth, James (CMS/CMCS) [james.moreth@cms.hhs.gov]; Snyder, Laura (CMS/CMCS) [laura.snyder1@cms.hhs.gov]

CC: Arnold, Charlie (CMS/CMCS) [charlie.arnold@cms.hhs.gov]; Clark, Jennifer (CMS/CMCS) [jennifer.clark@cms.hhs.gov]; Cuno, Richard (CMS/CMCS) [richard.cuno@cms.hhs.gov]; Fan, Kristin (CMS/CMCS) [kristin.fan@cms.hhs.gov]; Goldstein, Stuart (CMS/CMCS) [stuart.goldstein@cms.hhs.gov]; Heitt, Melissa (CMS/FCHCO) [melissa.heitt@cms.hhs.gov]; McClure, Deb (CMS/CMCS) [deborah.mcclure@cms.hhs.gov]; Mosley, Elle (CMS/CMCS) [larrica.mosley@cms.hhs.gov]; Schoonover, Matthew (CMS/CMCS) [matthew.schoonover@cms.hhs.gov]; Kosin, Donald (HHS/OGC) [donald.kosin@hhs.gov]; Dinh, Diana (CMS/CMCS) [diana.dinh@cms.hhs.gov]; Sampson, Tamara (CMS/CMCS) [tamara.sampson@cms.hhs.gov]

Subject: RE: RE: Oregon Hospital Tax

Hi Jeremy,

Sharing and adding that FMG has used a similar approach recently in New Hampshire and Rhode Island.

<https://www.medicaid.gov/medicaid/spa/downloads/NH-22-0050.pdf>

<https://www.medicaid.gov/medicaid/spa/downloads/RI-22-0018.pdf>

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Sent: Thursday, March 23, 2023 1:05 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

I will watch for an appointment. I am interested whether CMS would consider the SPAs approvable if it knows the state lacks a permissible source of non-federal share. I have seen disapprovals based on 1902(a)(2), where the state has failed to demonstrate it has an adequate source of non-federal share to support expenditures that would be authorized by the SPA.

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMUSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Thursday, March 23, 2023 12:16 PM
To: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS)

<Laura.Snyder1@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>

Subject: RE: Oregon Hospital Tax

Thanks James. I believe we could stop the clock if we asked them to submit a tax waiver, which I believe we should do. The question would be, "Can the State of Oregon please submit a new tax waiver that reflects the tax they are actually collecting?" That would be my recommendation.

I am not sure about qualifying language in the approval letter. We would probably need to take that to DFP and FMG leadership to weigh in. I will send out an appointment shortly to meet with Jeremy Vogel.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>

Sent: Thursday, March 23, 2023 11:45 AM

To: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>

Subject: RE: Oregon Hospital Tax

Hello Jeremy and Jonathan,

DRR would like to thank both of you for your comments on this matter.

b(5)

. In the interest of time management, I would like to

b(5)

b(5)

b(5)

This approach

b(5)

b(5)

them that, we don't know if they will submit a new tax waiver or not."

If OR does not choose to submit a new tax waiver as requested by CMS, this potential issue can be addressed at a later date that is more advantageous to CMS.

Please advise on the feasibility of this approach.

Thanks,
James

From: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>

Sent: Thursday, March 23, 2023 5:30 AM

To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>

Subject: RE: Oregon Hospital Tax

Hi Jeremy,

Trying to keep up with the email

b(5)

b(5)

I ask because in the past

b(5)

b(5)

I would also note that

b(5)

b(5)

As Jonathan noted, the

b(5)

b(5)

Thanks,
Laura

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>

Sent: Wednesday, March 22, 2023 2:38 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>

Subject: RE: Oregon Hospital Tax

b(5)

b(5)

This mismatch was pointed out by commenters on the 1992 IFC, as discussed in the final rule at 58 FR 43162 (Aug. 13, 1993):

Comment: Several commenters indicated that the definition of inpatient hospital services that we presented in, the preamble of the interim final rule is not correct. (In that definition, we noted that inpatient hospital services includes all services defined as inpatient hospital services, such as inpatient psychiatric services.) The commenters noted that in both section 1905(a) of the Act and in the Federal Medicaid regulations at §440.10, inpatient hospital services specifically excludes services furnished in free-standing psychiatric hospitals (referred to under Medicaid as institutions for the mental diseases (IMDs)). Two commenters requested that the regulations be clarified to state that psychiatric hospital services are included in the inpatient hospital services class. One commenter recommended that the classes be expanded to include psychiatric hospitals, hospitals owned by HMOs, and hospitals that do not charge for care.

Response: We believe inpatient hospital services encompass all services provided in an inpatient hospital setting, including psychiatric services. Consequently, we believe psychiatric hospital services need not be listed as a specific inpatient hospital service. However, we have revised the regulations to add psychiatric hospitals as a favorable exception under the waiver standards for the broad-based and uniform requirements in §§ 433.68(e)(1) and (e)(2).

b(5)

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 22, 2023 11:39 AM
To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Thanks Jeremy!

b(5)

b(5)

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Sent: Wednesday, March 22, 2023 11:04 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Adding Don Kosin.

Let's find time to discuss. In the meantime, can you explain a bit more what SPA(s) is (are) necessary in connection with this tax, which seems to support only SDPs that I wouldn't think should implicate a SPA?

Preliminarily, my thinking

b(5)

b(5)

It certainly looks like the

b(5)

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 22, 2023 10:35 AM
To: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

Jeremy,

We had a legal question

b(5)

b(5)

To date, we have asked three rounds of questions since that time.

b(5)

b(5)

is from October 17, 2017, which has an effective date of January 1, 2018. In the tax waiver approval letter, the structure of the tax is described as follows:

- Public hospitals are excluded from both assessments
- Hospitals with more than fifty beds are taxed 6% of net inpatient revenues and 6% of net outpatient revenues
- All other hospitals are taxed at a rate of 4% of net inpatient revenues and 4% of net outpatient revenues

As you can see, the only hospitals that are listed in the approval letter as being excluded are public, i.e. governmental, local and/or state owned and operated hospitals.

On January 19, 2022, in the course of reviewing the funding sources of the non-federal share listed in the pre-print for a state-directed payment [redacted] b(5)

b(5)

On October 6, 2022 SDP, DMCP provided us the following year's version of the same pre-print so that we could review the financing. In the pre-print submission [redacted] b(5)

b(5)

On November 21, 2022 CMS asked Oregon to please why [redacted] b(5)

b(5)

On December 13, 2022, Oregon stated [redacted] b(5)

b(5)

b(5) Neither Oregon's tax waiver request letter from July 19, 2017, nor the CMS approval letter from October 17, 2017 mentions either LTAC or psychiatric, mental health hospitals, or IMDs (institutions for mental disease) as being excluded from the assessment.

On February 28, 2023, we had a call with the State of Oregon [redacted] b(5)

b(5)

2017. On the call, Oregon responded [redacted] b(5)

b(5)

1. The lines of the CMS 64 in which they claim expenditures for the facilities in question
2. The state plan pages that govern the reimbursement for the facilities in question
3. The names of any other psych or rehab hospitals that are similarly situated i.e. are private hospitals that are excluded from the taxes.

On March 16, 2023, the State of Oregon responded to our questions. They stated [redacted] b(5)

b(5)

We believe that

b(5)

b(5)

In addition, we found a state law from 2017 law that removes an exclusion from taxation under these taxes for, “a hospital that provides only psychiatric care or a hospital identified by the Department of Human Services as appropriate for inclusion in the application described in section 4, chapter 736, Oregon Laws 2003.” We believe that the statement in

b(5)

We believe that the

b(5)

b(5)

Thank you. We look forward to hearing from you. If you would like to schedule a meeting to discuss please let us know. As we mentioned,

b(5)

b(5)

b(5)

. We appreciate any assistance that you may be able to provide.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)

Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

Message

From: Knight, Gary (CMS/CMCS) <[REDACTED]> b(6)
b(6)

Sent: 3/23/2023 5:25:31 PM

To: Vogel, Jeremy (HHS/OGC) <[REDACTED]> b(6)
[REDACTED]; Endelman (he/him),
[REDACTED]; Moreth, James
[REDACTED]; Snyder, Laura

CC: Arnold, Charlie (CMS/CMCS) <[REDACTED]> b(6)
[REDACTED]; Clark, Jennifer
[REDACTED]; Cuno, Richard
[REDACTED]; Fan, Kristin
[REDACTED]; Goldstein, Stuart
[REDACTED]; Heitt, Melissa
[REDACTED]; McClure, Deb
[REDACTED]; Mosley, Elle
[REDACTED]; Schoonover, Matthew
[REDACTED]; Kosin, Donald
[REDACTED]; Dinh, Diana
[REDACTED]; Sampson, Tamara

Subject: RE: RE: Oregon Hospital Tax

Hi Jeremy,

Sharing and adding that FMG has used a similar approach recently in New Hampshire and Rhode Island.

<https://www.medicaid.gov/medicaid/spa/downloads/NH-22-0050.pdf>

<https://www.medicaid.gov/medicaid/spa/downloads/RI-22-0018.pdf>

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>
Sent: Thursday, March 23, 2023 1:05 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>;

Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

I will watch for an appointment. I am interested whether CMS would consider the SPAs approvable if it knows the state lacks a permissible source of non-federal share. I have seen disapprovals based on 1902(a)(2), where the state has failed to demonstrate it has an adequate source of non-federal share to support expenditures that would be authorized by the SPA.

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Thursday, March 23, 2023 12:16 PM
To: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

Thanks James. I believe we could stop the clock if we asked them to submit a tax waiver, which I believe we should do. The question would be, "Can the State of Oregon please submit a new tax waiver that reflects the tax they are actually collecting?" That would be my recommendation.

I am not sure about qualifying language in the approval letter. We would probably need to take that to DFP and FMG leadership to weigh in. I will send out an appointment shortly to meet with Jeremy Vogel.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>
Sent: Thursday, March 23, 2023 11:45 AM
To: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>; Dinh, Diana (CMS/CMCS) <diana.dinh@cms.hhs.gov>; Sampson, Tamara (CMS/CMCS) <Tamara.Sampson@cms.hhs.gov>
Subject: RE: Oregon Hospital Tax

Hello Jeremy and Jonathan,

DRR would like to thank both of you for your comments on this matter

b(5)

b(5)

In the interest of time management, I would like

b(5)

b(5)

This approach

b(5)

b(5)

them that, we don't know if they will submit a new tax waiver or not."

b(5)

Please advise on the feasibility of this approach.

Thanks,
James

From: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Sent: Thursday, March 23, 2023 5:30 AM
To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Hi Jeremy,

Trying to keep up with the email:

b(5)

b(5)

I ask because in the past:

b(5)

b(5)

I would also note that:

b(5)

b(5)

As Jonathan noted, the:

b(5)

b(5)

Thanks,
Laura

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>

Sent: Wednesday, March 22, 2023 2:38 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS)

<STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>

Subject: RE: Oregon Hospital Tax

b(5)

b(5)

This mismatch was pointed out by commenters on the 1992 IFC, as discussed in the final rule at 58 FR 43162 (Aug. 13, 1993):

Comment: Several commenters indicated that the definition of inpatient hospital services that we presented in, the preamble of the interim final rule is not correct. (In that definition, we noted that inpatient hospital services includes all services defined as inpatient hospital services, such as inpatient psychiatric services.) The commenters noted that in both section 1905(a) of the Act and in the Federal Medicaid regulations at §440.10, inpatient hospital services specifically excludes services furnished in free-standing psychiatric hospitals (referred

to under Medicaid as institutions for the mental diseases (IMDs)). Two commenters requested that the regulations be clarified to state that psychiatric hospital services are included in the inpatient hospital services class. One commenter recommended that the classes be expanded to include psychiatric hospitals, hospitals owned by HMOs, and hospitals that do not charge for care.

Response: We believe inpatient hospital services encompass all services provided in an inpatient hospital setting, including psychiatric services. Consequently, we believe psychiatric hospital services need not be listed as a specific inpatient hospital service. However, we have revised the regulations to add psychiatric hospitals as a favorable exception under the waiver standards for the broad-based and uniform requirements in §§ 433.68(e)(1) and (e)(2).

b(5)

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMSSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, March 22, 2023 11:39 AM
To: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>
Subject: RE: Oregon Hospital Tax

Thanks Jeremy,

b(5)

b(5)

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>

Sent: Wednesday, March 22, 2023 11:04 AM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Kosin, Donald (HHS/OGC) <Donald.Kosin@HHS.GOV>

Subject: RE: Oregon Hospital Tax

Adding Don Kosin.

Let's find time to discuss. In the meantime, can you explain a bit more what SPA(s) is (are) necessary in connection with this tax: [REDACTED] b(5)

Preliminarily, my thinking: [REDACTED] b(5)

b(5)

It certainly looks like th[REDACTED] b(5)

Jeremy Vogel (he/him)
Attorney, DHHS/OGC/CMCSD
(202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>

Sent: Wednesday, March 22, 2023 10:35 AM

To: Moreth, James (CMS/CMCS) <James.Moreth@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>

Cc: Knight, Gary (CMS/CMCS) <Gary.Knight@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; McClure, Deb (CMS/CMCS) <Deborah.McClure@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>

Subject: RE: Oregon Hospital Tax

Jeremy,

We had a legal question: [REDACTED] b(5)

b(5)

“DRG quality and Access Pool” that funds reimbursement for certain hospitals, namely all Diagnosis-related group hospitals except for small and Rural hospitals and public academic medical centers. The SDP funds inpatient hospital services and outpatient hospital services. We received the SDP pre-print on October 6, 2017.

To date, we have asked three rounds of questions since that time.

b(5)

b(5)

is from October 17, 2017, which has an effective date of January 1, 2018. In the tax waiver approval letter, the structure of the tax is described as follows:

- Public hospitals are excluded from both assessments
- Hospitals with more than fifty beds are taxed 6% of net inpatient revenues and 6% of net outpatient revenues
- All other hospitals are taxed at a rate of 4% of net inpatient revenues and 4% of net outpatient revenues

As you can see, the only hospitals that are listed in the approval letter as being excluded are public, i.e. governmental, local and/or state owned and operated hospitals.

On January 19, 2022, in the course of reviewing the funding sources of the non-federal share listed in the pre-print for a state-directed payment

b(5)

b(5)

On October 6, 2022 SDP, DMCP provided us the following year’s version of the same pre-print so that we could review the financing. In the pre-print submission,

b(5)

b(5)

On November 21, 2022 CMS asked Oregon to please why

b(5)

b(5)

On December 13, 2022, Oregon stated,

b(5)

b(5)

b(5)

Neither Oregon’s tax waiver request letter from July 19, 2017, nor the CMS approval letter from October 17, 2017 mentions either LTAC or psychiatric, mental health hospitals, or IMDs (institutions for mental disease) as being excluded from the assessment.

On February 28, 2023, we had a call with the State of Oregon

b(5)

b(5)

2017. On the call, Oregon responded

b(5)

b(5)

b(5)

On March 10, 2023, we provided Oregon with the regulatory definitions found at 42 CFR 440.10 (a)(3)(i) and 42 CFR 440.20 (a)(4) for inpatient hospital services and outpatient hospital services respectively. We also asked them to please provide:

1. The lines of the CMS 64 in which they claim expenditures for the facilities in question
2. The state plan pages that govern the reimbursement for the facilities in question
3. The names of any other psych or rehab hospitals that are similarly situated i.e. are private hospitals that are excluded from the taxes.

On March 16, 2023, the State of Oregon responded to our questions. They stated **b(5)**

b(5)

We believe that **b(5)**

b(5)

In addition, we found a state law from 2017 law that removes an exclusion from taxation under these taxes for, “a hospital that provides only psychiatric care or a hospital identified by the Department of Human Services as appropriate for inclusion in the application described in section 4, chapter 736, Oregon Laws 2003.” We believe that the statement in

b(5)

We believe that the **b(5)**

b(5)

Thank you. We look forward to hearing from you. If you would like to schedule a meeting to discuss please let us know.
As we mentioned **b(5)**

b(5)

b(5)

We appreciate any assistance that you may be able to provide.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

Message

From: Arnold, Charlie (CMS/CMCS) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A86431ACF0D14B7D806D35E038A6409F-CHARLIE.ARN]
Sent: 1/12/2023 3:31:13 PM
To: Howe, Rory (CMS/CMCS) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ccac22a48e6d45d589f7fcb66359bfa5-rory.howe]
CC: Maccarroll, Amber (CMS/CMCS) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fff13febb7d74163a8cda295473ff274-amber.macca]; Silanskis, Jeremy (CMS/CMCS) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33ae954ebad741ffae3436063a8173e5-jeremy.sila]; Fan, Kristin (CMS/CMCS) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=287abdff785d48b69643b882fbeb859a-kristin.fan]
Subject: RE: RE: North Carolina

Thanks, Rory.

Charlie Arnold
Director
CMCS/FMG/DFP
(443) 962-2499

Any opinion expressed in this email communication does not represent the opinion of the agency and will not bind or obligate CMS. CMS has relied on the facts and information presented and if any material facts have not been disclosed, any opinion/advice is without force and effect. Any advice is limited to the facts presented and is part of informal discussions of the issues raised.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Thursday, January 12, 2023 10:30 AM
To: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: RE: North Carolina

Hi, Charlie. Please see attached some suggested revisions. If the team is good with these, we should send to NC via DMCP. We gave Dan a heads up yesterday that we are about to send these to the state.

Thanks,
Rory

From: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>
Sent: Thursday, January 12, 2023 8:29 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: FW: North Carolina
Importance: High

Good morning Rory,

I want to make sure you saw this that was sent yesterday. We let DMCP know that we will send our questions to them today, as we discussed at FMG Clearance on yesterday.

Please let me know if you need anything else from us on this.

Thanks,

Charlie Arnold
Director
CMCS/FMG/DFP
(443) 962-2499

Any opinion expressed in this email communication does not represent the opinion of the agency and will not bind or obligate CMS. CMS has relied on the facts and information presented and if any material facts have not been disclosed, any opinion/advice is without force and effect. Any advice is limited to the facts presented and is part of informal discussions of the issues raised.

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, January 11, 2023 2:02 PM
To: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>
Subject: RE: North Carolina
Importance: High

Dear Rory,

In accordance with your feedback today at FMG internal clearance please see attached for the revised questions for North Carolina. Please let us know if we can send these to DMCP or if they need to be changed. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Wednesday, January 11, 2023 9:39 AM
To: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Mosley, Elle

(CMS/CMCS) <larrica.mosley@cms.hhs.gov>

Subject: RE: North Carolina

Dear Rory,

In accordance with your instructions below we have revised the hold harmless questions to be more like what we sent to Nevada. We replaced the state's name. Other than that the letter is exactly the same. Please let us know if we can send both documents to North Carolina. In addition, please let us know if we need to tweak or change the questions in any way. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>
Sent: Tuesday, January 10, 2023 4:46 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: FW: North Carolina

FYI...

Charlie Arnold
Director
CMCS/FMG/DFP
(443) 962-2499

Any opinion expressed in this email communication does not represent the opinion of the agency and will not bind or obligate CMS. CMS has relied on the facts and information presented and if any material facts have not been disclosed, any opinion/advice is without force and effect. Any advice is limited to the facts presented and is part of informal discussions of the issues raised.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, January 10, 2023 4:05 PM
To: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: RE: North Carolina

Hi Charlie,

Let's discuss at the DFO/DFP Touch base tomorrow. Although we have very limited verbal information from the state expressing concerns about possible redistribution arrangements, I am concerned that the limited hold harmless questions here could be viewed as inconsistent with what we shared with Nevada (see attached – though notably, Nevada requested more detail on what assurances we would want).

Thanks,
Rory

From: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>
Sent: Tuesday, January 10, 2023 3:36 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: FW: North Carolina
Importance: High

Hi Rory,

We received the below email from DMCP. They are requesting our questions for NC by 1/20/2023 or the will recommend the approval of the SDP. We are not sure how to respond. We let them know that, because of a possible hold-harmless issue, you are reviewing the questions.

Have you had a chance to review the questions? How should we respond to DMCP?

Thanks,

Charlie Arnold
Director
CMCS/FMG/DFP
(443) 962-2499

Any opinion expressed in this email communication does not represent the opinion of the agency and will not bind or obligate CMS. CMS has relied on the facts and information presented and if any material facts have not been disclosed, any opinion/advice is without force and effect. Any advice is limited to the facts presented and is part of informal discussions of the issues raised.

From: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Sent: Tuesday, January 10, 2023 8:12 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>; Gibson, Alexis (CMS/CMCS) <alexis.gibson@cms.hhs.gov>
Subject: RE: North Carolina

Hi Jonathan and FMG colleagues,

Thank you for the update. As noted today, we are concerned with the length of time that this review has been on hold. We received the preprint in April 2022 and have been ready to approve this action pending this outstanding concern on the provider tax for several months. We appreciate that financing issues take time to resolve, but no questions have been issued to the state on the provider tax in months.

We appreciate that everyone is juggling several priorities, including NPRMs as well as ongoing work. However, we feel that continuing to hold this review in this manner is problematic.

If questions for the state cannot be finalized and sent to the state by COB 1/20, we will recommend moving ahead with approval of the SDP. We are happy to add language to the approval letter related to concerns around non-federal share if questions cannot be sent by that date; just let us know if you'd like to add the language and what language should be added.

We are happy to further discuss this if helpful.

Thanks,
Laura

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Monday, January 9, 2023 3:27 PM
To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Subject: RE: North Carolina

Lovie,

North Carolina was brought up today during a meeting with Rory. He said he would take a look at the questions and get back to us soon. We just wanted to keep you updated. Thanks.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Thursday, January 5, 2023 11:49 AM
To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Subject: RE: North Carolina

Thank you Lovie. We are waiting on clearance to send the questions from Rory. I hope to bring this up with Charlie today at our meeting. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Sent: Thursday, January 5, 2023 10:39 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Subject: RE: North Carolina

Hi Anna and Jonathan,

Happy New Year! As a follow up to the emails below, can you provide a status update on FMG's question sets for NC. The state has requested updates regarding the questions since November 2022. Can you assist us with getting the questions cleared? We'd like to respond to the state and send any questions from FMG this week if possible.

Thanks,
Lovie

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Thursday, December 15, 2022 12:05 PM
To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Subject: RE: North Carolina

Hello Lovie,

I can confirm that the issue was brought up at the meeting with Rory yesterday. Rory stated that he would take a look at the questions and loop back with us after he had a chance to review them. I will be sure to keep you updated as more information becomes available. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Thursday, December 15, 2022 10:58 AM
To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Subject: RE: North Carolina

Hello Lovie,

I believe there was supposed to be a meeting with Rory yesterday where we had planned to ask if Rory had taken a look at the questions for North Carolina. I am not sure if we brought that up at the meeting. Let me check and get back with you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Sent: Thursday, December 15, 2022 10:03 AM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: North Carolina

Hi Jonathan,

I'm following up on the email below. Have you received feedback from Rory regarding the North Carolina question sets? The state is requesting a status update.

Thank you,
Lovie

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Sent: Tuesday, December 13, 2022 1:45 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: North Carolina

Hi Jonathan and Stuart,

North Carolina is requesting a status update (please see attached email). During the FMG meeting yesterday and the email below you indicated you're waiting for feedback from Rory on the question sets. We'd like to respond to the state and send any questions from FMG this week if possible. We look forward to your update on next steps.

Thanks,
Lovie

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Sent: Monday, November 28, 2022 12:04 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: North Carolina

Hi Jonathan—Great! Thanks for the update.

Lovie

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Monday, November 28, 2022 11:50 AM
To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Subject: RE: North Carolina

Lovie,

Yes. We have questions about the tax waiver submission itself as well as about our hold harmless concerns. Similar to how we handled the Louisiana IP/OP hospital tax, our plan is to ask the questions related to the tax waiver submission itself to the state through the tax waiver submission process and our questions concerning possible hold harmless arrangements through the state-directed payment financing review process. On his request, we have sent both sets of questions to Rory and are waiting to hear back from him with his feedback before sending the questions to the state. Please let us know if we can be of any further assistance at this time. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Sent: Monday, November 28, 2022 10:18 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Cc: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Subject: RE: North Carolina

Hi Jonathan,

Happy Monday! North Carolina is requesting a status update regarding their tax waiver submission (please see attachment). Does FMG have follow questions for the state? I'll add this topic the DMCP/FMG meeting agenda for tomorrow.

Thanks,
Lovie

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Tuesday, November 1, 2022 1:39 PM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: FW: North Carolina

Dear all,

I started to review North Carolina's IP hospital services and OP hospital services health care-related taxes. I can already tell this one is going to require a lot of work before it gets to something approaching a tax for which we could recommend approval. It's certainly not the most straight forward or easily understandable submission we have ever received. It's been a decade since the state has come in to us with a tax waiver submission and it shows. I don't think someone has worked on this data in a long time. In general, the more recent a tax waiver approval is, the better shape it tends to be. In an ideal world, states would go in every so often to make sure the data is correct, clean things up, etc. We had a section of MFAR that had an expiration date of three years for tax waivers that I think would have partially addressed this issue. Please see attached for questions and the submission from the State. Please also see attached for the tax waiver approval from 2011. Also, it would be good to hear more detail from Rory about what he knows specifically about the pooling and redistribution mechanism that we believe may be attached to this tax and the extant hold harmless concerns. I am copying DMCP for awareness. I will also copy when we send questions to the state.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28
Baltimore, MD 21244-1850

From: Endelman (he/him), Jonathan (CMS/CMCS)
Sent: Friday, October 7, 2022 2:35 PM
To: cecilia.williams@dhhs.nc.gov; Betty.J.Staton@dhhs.nc.gov
Cc: Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Burns, James (CMS/CMCS) <James.Burns@cms.hhs.gov>; Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>; Cuno, Richard (CMS/CMCS) <Richard.Cuno@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: North Carolina

Good afternoon Ms. Staton,

My name is Jonathan Endelman and I am a member of the tax team located in the Financial Management Group (FMG) at CMS. We are responsible for reviewing all health care-related tax waivers of the broad-based and uniformity requirements. We are acknowledging receipt of the State's submission of 10/6/2022 requesting a waiver of the broad-based and uniformity requirements for its inpatient and outpatient hospital services taxes. We will be in touch in case we have any questions or concerns over the course of our review. In the future, please address all tax waivers to:

Mr. Rory Howe, Director
Financial Management Group
Center for Medicaid and CHIP Services
U.S. Department of Health & Human Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850

Thank you.

Best,

Jonathan