

Message

From: Mike Cheek [mcheek@ahca.org]
Sent: 3/10/2023 1:53:57 PM
To: CMS CMCS_Scheduling; (b)(6); (b)(6); Silanskis, Jeremy (CMS/CMCS); (b)(6); (b)(6); Tsai, Daniel (CMS/CMCS); (b)(6); (b)(6); Hebert, Krista (CMS/CMCS); (b)(6); (b)(6); Briskin, Perrie (CMS/CMCS); (b)(6); (b)(6); Howe, Rory (CMS/CMCS); (b)(6); (b)(6)
CC: Tara Gregorio (MA); (b)(6); Patti Cullen; (b)(6); John Paul Brandt; (b)(6); Wiffler, Paxton; (b)(6)
Subject: AHCA Meeting Packet for Monday, March 13 -- ERC Treatment and Medicaid Unwinding
Attachments: AHCA Meeting with Deputy Administrator Tsai Meeting Packet 031023 FINAL.pdf

Good Morning,

Thank you very much for making time for our meeting on Monday – we appreciate your valuable time. Also, because of the ERC urgency, we have included our State Executive from MN and one of her members who already has received rate reduction notification from the state as well as JP Brandt with Thorn Run Partners for continuity. JP participated in a February 9 call with CMS on ERC which I was unable to join.

And, attached, please find a meeting packet. The agenda covers our key talking points and respectful requests of CMS and the array of attachments provide either documentation or our concerns or offer solutions.

Again, thank you very much for your time and we look forward to the discussion.

Best Regards,

Mike

Michael W. Cheek
Senior Vice President
Reimbursement Policy & Market Strategy
American Health Care Association &
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Improving Lives by Delivering Solutions for Quality Care
Get the latest updates: www.ahcancal.org/coronavirus
Email: COVID19@ahca.org

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March 13, 2023, 12:30 – 1:00 PM Eastern

AHCA/NCAL Participants: Tara Gregorio, Mass Senior Care, President & CEO; Patti Cullen, President and CEO, Care Providers of Minnesota; Paxton Wiffler, COO, Monarch Health Care Management; Mike Cheek, AHCA

Agenda

I. Employee Retention Credit (ERC) Attachment A

- a. ERC intended to support providers with COVID costs
- b. Treatment at Grant Results in Medicaid Reductions
 - i. Prospective Decreases based on One-Time Historical Funds
 - ii. Will be Unable to Rebuild Rates
- c. State methods will focus on a median decrease resulting in inequity of provider rate reductions
- d. Will significantly impact minimum staffing Attachment B

Requests:

- Direct States Cease Medicaid Rate Reduction Actions Attachment C
(Example – Myers and Stauffer already directing reductions)
- Work with Providers on Grant Interpretation

II. Medicaid Unwinding

- a. Recognize CMS' ABD Not High Risk but LTC is More Complex Attachment D
 - i. Competency – 70% with Cognitive Impairment and 52% with SMI
 - ii. Multiple Parties - Legal Guardian, Rep Payee, Conservator
 - iii. Communication Among Parties Difficult and Time Consuming
 - iv. Know only of 2-3 States with LTSS-Specific Guidance
- b. LTSS Provider Challenges Resource Accumulation Not Well Understood
 - i. Workforce Issues Extend to Business Offices & Many New Staff Have No Experience with Redetermination
 - ii. Economic Incentive Payments
 - iii. Personal Needs Allowance Increases Aligned with COLAs

Requests:

- Guidance to States on LTSS-Specific Guidance (Example) Attachment E
- Designate a DEPG Staff Person to Unwinding State TA Team

Attachment A – Letter to Deputy Administrator

February 10, 2023

Daniel Tsai, Deputy Administrator, and Director
Center for Medicaid and CHIP Services
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Reconsideration of CMS Treatment of Employee Retention Credit

Dear Mr. Tsai:

The American Health Care Association and the National Center for Assisted Living (AHCA/NCAL) represent more than 14,000 skilled nursing facilities (SNF), assisted living communities (AL), and other critical Medicaid-financed long-term services and supports (LTSS) providers. As LTSS providers, historically our respective membership is, and remains, heavily dependent upon Medicaid funding and, since the pandemic, also upon critical federal stimulus resources to continue to deliver critical services and supports. We appreciate the flexibility and assistance the Centers for Medicare & Medicaid Services (CMS) has provided during this ongoing crisis. However, we graciously request your immediate assistance with an urgent matter impacting the ability of our members to continue to provide needed LTSS services to Medicaid beneficiaries in Minnesota and other states as a result of recent CMS communications regarding the treatment of the Employee Retention Credit.

To provide emergency assistance and health care response for providers affected by the COVID-19 pandemic, Congress, through the CARES Act, included three primary sources of financial assistance for healthcare providers: the Paycheck Protection Program (PPP) loans, the Provider Relief Fund (PRF), and the Employee Retention Credit (ERC). In previous guidance, CMS indicated that PPP and PRF funds should not be recorded as offsets to expenses when providers submit their Medicare cost reports and should instead be treated as revenue. We believe the treatment of these funds in this manner correctly captured Congressional intent to provide the emergency assistance needed to providers during the unprecedented public health emergency. Despite ERC serving as a similar revenue stream as PPP and PRF, AHCA/NCAL was alarmed about recent informal guidance to the state of Minnesota that ERC should be treated differently. Specifically, in response to a question posed by the Minnesota State Medicaid Agency regarding the treatment of ERC, CMS responded that ERCs are to be treated like any other tax credit and referred providers to the Provider reimbursement Manual, 2122.7.¹

¹ 2122.7 Review of Reasonable Costs, Including Taxes. -- In general, reasonable costs claimed by a provider, including taxes, must be actually incurred. While a tax may fall under a category that is generally accepted as an allowable Medicare cost, the provider may only treat the net tax expense as the reasonable cost actually incurred for Medicare payment purposes. The net tax expense is the tax paid by the provider, reduced by payments the provider received that are associated with the assessed tax. Contractors will continue to determine whether taxes and other expenses are allowable based on reasonable cost principles set forth in the Medicare statute and regulations.”

As you are aware, Medicare and Medicaid Cost Reports are used extensively to set provider rates, utilizing price-based reimbursement methodologies based on historically reported cost to estimate the cost of providing future services. Applying a one-time source of funding against current cost, thereby reducing future Medicaid rates when ERC is no longer available, would create artificially low rates. In addition, since Medicaid rates are often determined based on state-wide averages or median cost, providers who did not receive ERC funding, would also be detrimentally impacted.

More broadly, the treatment of ERC funding as a tax credit would have a devastating impact on the nursing home community and the beneficiaries they serve. While the industry has come a long way since the beginning of the COVID-19 pandemic, nursing homes experienced the worst job loss of any health care sector during the pandemic and is not expected to rebound to pre-pandemic levels until 2027.² Notably, 55 percent of nursing home providers report that they are operating at a loss and 52 percent suggest that they may not be able to continue operating for more than a year at the current pace.³ Since the mean Medicaid base payment rate was 86 percent of reported facility costs according to a recent MACPAC report⁴, additional cuts to Medicaid rates resulting from treatment of ERC funding as an offset to costs would further devastate the industry.

Respectfully, we believe that ERC funds should be treated as a grant or other revenue for Medicare and Medicaid cost reporting purposes in the period the application is submitted (likely 2020 or 2021) and not offset against cost and ask that you consider this position. Even though ERC is labeled as a tax credit based on the enabling legislation, it is accessed through an application process outlined by the Internal Revenue Service (IRS) similar to other COVID-19 funding streams. Additionally, the primary purpose of the ERC is to give providers further resources to be used to retain employees during the Public Health Emergency, even though applying for the credit is done via the Employer's Quarterly Tax form 941. Therefore, we do not believe the term, "tax," effectuates ERC treatment as a tax credit.

More immediately, the impact of CMS' informal guidance on treating ERC funding as a tax credit is already being seen in the state of Minnesota. Since that communication from CMS, the Minnesota State Medicaid Agency has already begun issuing notices of reductions in Medicaid rates to providers, drastically reducing the Medicaid and private pay rates by \$64.60 per patient day (a 37.2% reduction). As a result of these cuts, we anticipate an estimated annual loss of \$3.5 million. Such cuts, in addition to the already high operating loss nursing homes are experiencing, will likely force many nursing homes to close in Minnesota, further adding to the 465 nursing homes that have closed and the 18,071 residents that have been displaced during the pandemic. While the intent of the CARES Act funding was to provide health care providers with sufficient funds to continue operating during the COVID-19 pandemic, CMS treatment of ERC funding as a tax credit would do just the opposite, and we respectfully request your assistance in swiftly addressing this matter.

² See AHCA State of the Nursing Home Sector Report, available at: <https://www.ahcancal.org/News-and-Communications/Fact-Sheets/FactSheets/State-of-Nursing-Homes-Infographic.pdf>

³ Id.

⁴ See January 2023 MACPAC Brief on Estimates of Medicaid Nursing Facility Payments Relative to Costs, available at <https://www.macpac.gov/wp-content/uploads/2023/01/Estimates-of-Medicaid-Nursing-Facility-Payments-Relative-to-Costs-1-6-23.pdf>

We are thankful for the thoughtfulness of key staff from the Financial Management Group (FMG) within the Center for Medicaid and CHIP Services when we raised this issue and provided our rationale for why ERC should be treated as a grant similar to PPP and PRF during a February 9, 2023 meeting. We appreciate FMG's commitment to revisiting the current CMS interpretation of ERC as a tax credit and are also thankful to your staff's agreement to reconsider halting providing similar guidance to other states as CMS further contemplates the treatment of ERC payments. While we understand such reconsideration may take some time, we respectfully request that CMS timely inform Minnesota that it is revisiting the treatment of ERC as a tax and therefore may not need to reduce Medicaid rates. Such action by CMS would immediately mitigate the uncertainty of the financial viability of many AHCA/NCAL members in Minnesota.

Thank you for your consideration. We look forward to continuing to work with you toward our shared goal of ensuring access to LTSS for Medicaid beneficiaries.

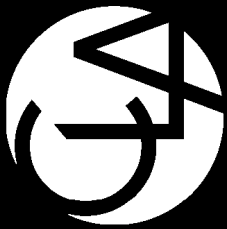
Sincerely,

(b)(6)

Mark Parkinson
President & CEO

CC: Rory Howe, Division Director of the Financial Management Group

Attachment B – Minimum Staffing Cost Simulation



We'll get you there.

Staffing Mandate Analysis In-Depth Analysis on Minimum Nurse Staffing Levels

November 2022

CPAs | CONSULTANTS | WEALTH ADVISORS

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Summary of Findings and Conclusions

The cost of staffing to meet a minimum staffing mandate is estimated to be between \$3.8 billion and \$11.3 billion, depending on the scenario. The CLA 37th Annual SNF Cost Comparison and Industry Trends report identified 7,741 out of 13,193 SNFs (59%) that had negative operating margins (excluding public health emergency funding). The additional burden of meeting minimum staffing requirements with no funding mechanism could potentially increase the number of facilities operating with negative margins.

In addition to the cost of meeting a staffing mandate, the SNF industry would need to hire between 58,000 and 191,000 additional full-time equivalents (FTEs). Although there have been improvements in workforce availability in areas, nationally SNFs are still challenged to find the appropriate workforce to meet patient care needs.



Results — Facility Level

	CNA	LPN	RN	All
Scenario 1	1,815	12,961	4,608	844
Scenario 2	4,065	13,574	6,004	1,965
Scenario 3	7,546	14,063	7,728	4,074
	CNA	LPN	RN	All
Scenario 1	12%	86%	30%	6%
Scenario 2	27%	90%	40%	13%
Scenario 3	50%	93%	51%	27%

The tables identify the number and percentage of facilities that **met** the specified criteria for each discipline and total hours per patient day individually for the period of July 1, 2021, through June 30, 2022.

The number of facilities nationally meeting the specified criteria has improved slightly for scenarios 2 and 3 since the initial analysis in June 2022. The slight improvement is due to some states showing some improvements in workforce availability. However, there are numerous states that continue to struggle with workforce shortages.

There is no change in the number of facilities meeting the criteria for scenario 1 (4.1 HPPD) due to the unavailable workforce.



Results — Cost and FTEs to Meet Criteria

Estimated Annual Cost (\$ in Millions)

	CNA	LPN	RN	All
Scenario 1	\$6,527	\$276	\$4,448	\$11,250
Scenario 2	\$3,776	\$172	\$3,135	\$7,083
Scenario 3	\$1,675	\$103	\$1,990	\$3,768

Estimated FTEs

	CNA	LPN	RN	All
Scenario 1	143,023	3,850	44,263	191,170
Scenario 2	83,251	2,405	31,153	116,831
Scenario 3	37,443	1,437	19,873	58,767

Although the number of facilities meeting the various criteria has improved slightly from June 2022, the cost to meet these criteria has increased from the original analysis. The hourly cost of hiring a workforce to meet the various scenarios has continued to increase based upon the most recently filed Medicare cost reports.

CLA utilized the average hourly rates from Medicare cost reports to determine the costs to the industry for meeting the staffing minimum per scenario.

All = Meets HPPD for each discipline (CNA+LPN+RN)



Results — Resident Impact

Average Total Daily Census

	CNA	LPN	RN	All
Scenario 1	1,059,271	150,825	874,206	1,117,692
Scenario 2	897,746	104,479	765,320	1,043,367
Scenario 3	618,807	68,051	628,231	887,742

In the top table, the sum of the number of residents (ADC) in facilities that would not pass the staff mandate for each scenario.

In order to provide care for these residents at the proposed hourly rates per patient day, either additional staff would need to be hired or census would have to be reduced. The bottom table shows the number of residents impacted if facilities reduced census by denying admissions to meet the mandate.

Census Impacted if Facilities Met Mandate by Reducing Average Daily Census

	CNA	LPN	RN	All
Scenario 1	290,191	41,635	336,321	446,715
Scenario 2	192,449	29,915	269,391	358,055
Scenario 3	100,556	21,071	199,733	258,620

All = Mandate tested for all three disciplines (CNA, LPN, and RN)
i.e. must meet all 3

Attachment C – Myers and Stauffer MS Guidance

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PROJECTS

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Bulletin Board

Date Posted: July 29, 2022
Title: All Nursing Facility Providers
Message: The Division of Medicaid were informed from Conduent that both the May/June and July updated rates are expected to take several more weeks to be approved and completed. Conduent will do a mass adjustment on all claims within the months of May/June and July.

Date Posted: July 14, 2022
Title: All Nursing Facility Providers
Message: The Division of Medicaid will be uploading amended rates for May 1 - June 30, 2022 and July 1 - September 30, 2022 by Monday, July 18.
If you have not received a copy of your newly amended rates by early next week, please contact the Office of Reimbursement.

Date Posted: March 8, 2023
Title: Employee Retention Credit

The Employee Retention Credit should be treated as a refund and offset against expenses.
Qualified and Non-qualified payroll salaries and applicable FICA should be adjusted on
Form 6 applicable lines.

Form 6 Line		Amounts after reclassifications and adjustments		Allocation of Employee Retention Credit Column 4 Adjustments		Employee Retention Credit Amount
Salaries	Payroll Tax	* Salaries	** Payroll Tax	Salaries	Payroll Tax	
1-01	1-05	630,279	49,053	(460,104)	(35,809)	
1-02	1-05	596,507	46,425	(435,450)	(33,890)	
1-03	1-05	178,324	13,879	(130,176)	(10,131)	
1-04	1-05	26,000	1,712	(18,860)	(1,250)	
3-01	3-07	39,360	3,063	(28,733)	(2,236)	
3-03	3-07	61,503	4,787	(44,897)	(3,494)	
3-04	3-07	105,867	8,239	(77,263)	(6,015)	
3-05	3-07	59,623	3,459	(43,525)	(2,525)	
3-06	3-07	68,942	5,366	(50,328)	(3,917)	
4-01	4-10	124,500	8,300	(90,865)	(6,059)	
4-02	4-10	28,134	2,190	(20,538)	(1,598)	
4-03	4-10	167,330	13,023	(122,151)	(9,507)	
4-04	4-10	139,591	10,864	(101,901)	(7,931)	
4-05	4-10	167,330	13,023	(122,151)	(9,507)	
4-06	4-10	37,468	2,916	(27,351)	(2,129)	
4-07	4-10	23,597	1,534	(17,226)	(1,120)	
4-08	4-10	93,277	7,260	(68,092)	(5,299)	
4-09	4-10	193,254	15,041	(141,075)	(10,980)	
6-08	6-08	8,633	672	(6,302)	(491)	
Total		2,749,518	210,805	(2,007,148)	(153,888)	2,161,036

* Per the example, Providers should offset the credit proportionately to each qualified and non-allowed salaries expense (630,279) divided by the totals of both salaries and payroll tax expenses (2,749,518 + 210,805) times the total employee retention credit amount (2,161,036). This will give you the employee retention credit for adjustment for salaries expense (460,104).

** Per the example, Providers should offset the credit proportionately to each qualified and non-allowed payroll tax expense (49,053) divided by the totals of both salaries and payroll tax expenses (2,749,518 + 210,805) times the total employee retention credit amount (2,161,036). This will give you the employee retention credit for adjustment for payroll tax expense (35,809).

Date Posted: January 19, 2023
Title: Web Portal Maintenance
Message: Please be aware that there is scheduled maintenance for the MS Cost Reporting Web Portal on January 21, 2023 from 4 AM – 1 PM CT. Please contact us at MS_Web_Portal@mslc.com should you have any questions.

Date Posted: December 29, 2022
Title: All Nursing Facility Providers - 2023 Rates
Message: Rates for all Long-Term Facilities for January 2023 will be updated no later than January 15th.

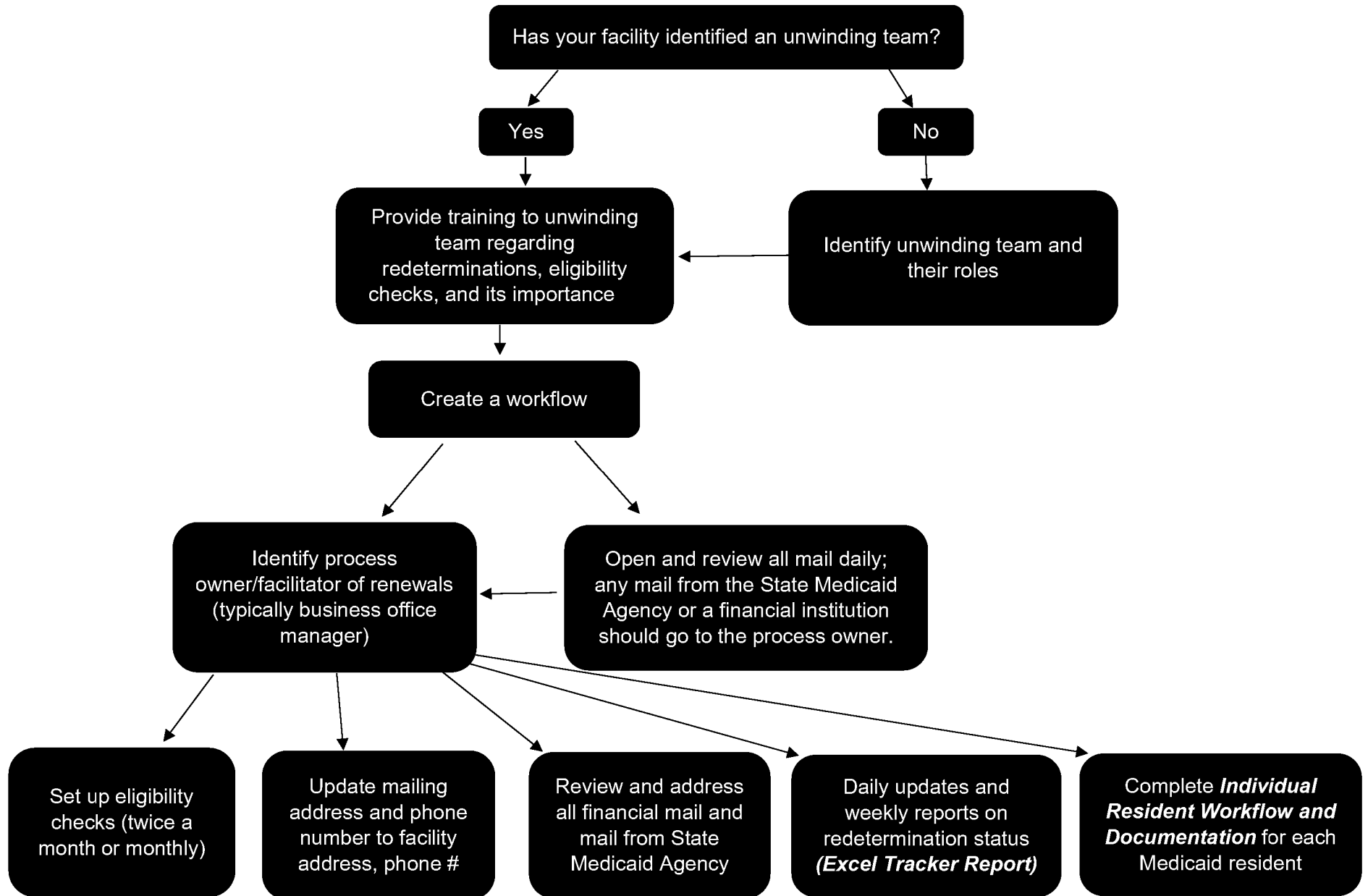
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Version: 1.2.0.48

Attachment D – Unwinding Flow Charts

UNWINDING TEAM WORKFLOW



Excel Tracker Report and Individual Resident Workflow and Documentation Tool are additional attachments for PHE unwinding process.

Individual Resident workflow



Attachment E – TennCare LTSS Specific Guidance

Date: 03/07/2023

To: Medicaid Nursing Facilities, Managed Care Organizations (MCOs), Area Agencies on Aging and Disability (AAADs), Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs), Department of Intellectual & Developmental Disabilities (DIDD), PACE

From: Kristeena Ashby, Senior Assistant Deputy Chief of LTSS Operations

Re: LTSS Process to assist with Financial Eligibility Redeterminations

The purpose of this memo is to provide an update regarding TennCare redetermination for Long Term Services and Supports members. All Medicaid agencies, including TennCare, are required to redetermine the eligibility of individuals enrolled in the program at least once a year. Redetermination had been on hold since 2020 due to the COVID-19 Public Health Emergency (PHE). Beginning April 1, 2023, TennCare will begin the state and federally required redetermination process to determine members continued eligibility for TennCare. This will include ALL individuals receiving Long-Term Services and Supports (LTSS).

TennCare developed a comprehensive Public Health Emergency (PHE) unwinding plan which will consist of four phases: Phase I (Plan), Phase II (Educate), Phase III (Renew), Phase IV (Transition). To learn more about these specific phases, click here: <https://www.tn.gov/tenncare/information-statistics/unwinding-the-phe-for-partners.html>.

LTSS Redetermination Process:

During the redetermination process, LTSS will review two different redetermination reports that contain member information. LTSS will utilize this information to provide each entity with a monthly list of their specific members that are due for redetermination.

LTSS will view the monthly report(s) on the day received and made available. TennCare/LTSS will send member information to the assigned entity (MCO, DIDD, ICF/IID, PACE), while maintaining a spreadsheet of all members selected. This will be distributed via the ltss.redeterminations@tn.gov email account to the appropriate email as indicated by each entity.

Within 3 business days of receipt, the assigned entity will start outreach attempts to alert the member (or family member or representative, as applicable) of the renewal packet,¹ purpose and

¹ Renewal packets will only be mailed to those individuals who cannot otherwise be redetermined without additional information. The information in the renewal packet can be provided to TennCare through TennCare Connect online, by phone, in person, by mail or by fax. See section for "Renew Coverage."

process (including timeline) and will encourage the member to complete and return the renewal packet. The entity will also provide the organization's contact information should the member require additional assistance in completing or submitting the renewal packet to TennCare. Individuals will have 40 days to complete and submit the renewal packet.

If a renewal packet is not submitted to TennCare within 40 days, the member will receive an eligibility termination notice, providing 20 days advance notice of termination of TennCare (including LTSS) eligibility. When a person is identified as having received a "no response" termination notice, LTSS will notify the relevant partner(s) via spreadsheet and track member contact and response to ensure timely resolution. The relevant partner(s) will document and return to TennCare all outreach attempts and outcomes if requested via email at ltss.reterminations@tn.gov and will schedule a face-to-face visit with the member if needed to assist in the completion of the renewal packet. The renewal packet can still be submitted during the 20-day advance notice period, and if received, the termination will not proceed pending review of the packet. TennCare LTSS will supply the assigned entity (MCO, ICF/IID, DIDD, PACE) with reports identifying these members who have received a termination notice. When this occurs, the assigned entity will provide needed follow-up and assistance.

If a packet is not received by TennCare by the end of the 20-day advance termination notice period, the person's eligibility will end. This includes all authorizations and payment for NF services. TennCare will **not** be able to extend coverage, including for persons receiving LTSS unless a renewal packet or an appeal is timely received. However, if a member renews or reapplies for TennCare and is determined eligible within 90-days of their coverage termination, TennCare will fill the gap in coverage.

Renew Coverage:

There are **five (5) ways members can renew their coverage:**

1. **Use TennCare Connect.** Go to the TennCare Access Portal at <https://tenncareconnect.tn.gov> and complete the renewal online. This is the easiest way to complete the process. Simply log in to your account, search for the member, then click "Renew my Coverage".
2. **Call *TennCare Connect*** for free at 855-259-0701 to renew their coverage over the phone.
3. **In-person** you can visit the Department of Human Services (DHS) in your county to drop off your paper documents or use the kiosk to complete your renewal online.
4. **Mail** their completed and signed Renewal Packet to:
TennCare Connect
P.O. Box 305240
Nashville, TN 37230-5240

5. **Fax** their completed and signed Renewal Packet to 855-315-0669.

Please note that blank redetermination packets will not be available or accepted because all packets are prepopulated with data known about the member and his or her family. Importantly, when other members of the family also have TennCare, TennCare Connect will align redetermination for everyone in the family. One renewal packet will be sent for the family, and their renewals will always be in synch. Changes that are reported will also be processed for each family member, as appropriate.

Thank you in advance for your attention, cooperation, and support. If you have questions, please direct them to the LTSS redetermination email address at ltss.redeterminations@tn.gov.

Message

From: Silanskis, Jeremy (CMS/CMCS); (b)(6)
(b)(6)
Sent: 3/13/2023 1:18:28 PM
To: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6)
Subject: FW: FW: AHCA Meeting Packet for Monday, March 13 -- ERC Treatment and Medicaid Unwinding
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From: Mike Cheek <mcheek@ahca.org>

Sent: Friday, March 10, 2023 8:54 AM

To: CMS CMCS_Scheduling <CMCS_Scheduling@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Cc: Tara Gregorio (MA) <(b)(6)> Patti Cullen <(b)(6)> John Paul Brandt <(b)(6)> Wiffler, Paxton <pwiffler@monarchmn.com>

Subject: AHCA Meeting Packet for Monday, March 13 -- ERC Treatment and Medicaid Unwinding

Good Morning,

Thank you very much for making time for our meeting on Monday – we appreciate your valuable time. Also, because of the ERC urgency, we have included our State Executive from MN and one of her members who already has received rate reduction notification from the state as well as JP Brandt with Thorn Run Partners for continuity. JP participated in a February 9 call with CMS on ERC which I was unable to join.

And, attached, please find a meeting packet. The agenda covers our key talking points and respectful requests of CMS and the array of attachments provide either documentation or our concerns or offer solutions.

Again, thank you very much for your time and we look forward to the discussion.

Best Regards,

Mike

Michael W. Cheek

Senior Vice President

Reimbursement Policy & Market Strategy

American Health Care Association &

National Center for Assisted Living

V: 202\454-1294

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Improving Lives by Delivering Solutions for Quality Care

Get the latest updates: www.ahcancal.org/coronavirus

Email: COVID19@ahca.org

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Section 438.6(c) Preprint

42 C.F.R. § 438.6(c) provides States with the flexibility to implement delivery system and provider payment initiatives under MCO, PIHP, or PAHP Medicaid managed care contracts (i.e., state directed payments). 42 C.F.R. § 438.6(c)(1) describes types of payment arrangements that States may use to direct expenditures under the managed care contract. Under 42 C.F.R. § 438.6(c)(2)(ii), contract arrangements that direct an MCO's, PIHP's, or PAHP's expenditures under paragraphs (c)(1)(i) through (c)(1)(ii) and (c)(1)(iii)(B) through (D) must have written approval from CMS prior to implementation and before approval of the corresponding managed care contract(s) and rate certification(s). This preprint implements the prior approval process and must be completed, submitted, and approved by CMS before implementing any of the specific payment arrangements described in 42 C.F.R. § 438.6(c)(1)(i) through (c)(1)(ii) and (c)(1)(iii)(B) through (D). Please note, per the 2020 Medicaid and CHIP final rule at 42 C.F.R. § 438.6(c)(1)(iii)(A), States no longer need to submit a preprint for prior approval to adopt minimum fee schedules using State plan approved rates as defined in 42 C.F.R. § 438.6(a).

Submit all state directed payment preprints for prior approval to:
StateDirectedPayment@cms.hhs.gov.

SECTION I: DATE AND TIMING INFORMATION

1. Identify the State's managed care contract rating period(s) for which this payment arrangement will apply (for example, July 1, 2020 through June 30, 2021):
July 1, 2022 - June 30, 2023
2. Identify the State's requested start date for this payment arrangement (for example, January 1, 2021). *Note, this should be the start of the contract rating period unless this payment arrangement will begin during the rating period.* July 1, 2022
3. Identify the managed care program(s) to which this payment arrangement will apply:
Standard Plan Services
4. Identify the estimated **total dollar amount** (federal and non-federal dollars) of this state directed payment: \$2,697,046,623 (see additional note in attachment)
 - a. Identify the estimated federal share of this state directed payment: 2,031,577,838
 - b. Identify the estimated non-federal share of this state directed payment: \$665,468,785

Please note, the estimated total dollar amount and the estimated federal share should be described for the rating period in Question 1. If the State is seeking a multi-year approval (which is only an option for VBP/DSR payment arrangements (42 C.F.R. § 438.6(c)(1)(i)-(ii))), States should provide the estimates per rating period. For amendments, states should include the change from the total and federal share estimated in the previously approved preprint.

5. Is this the initial submission the State is seeking approval under 42 C.F.R. § 438.6(c) for this state directed payment arrangement? ☒ Yes ☐ No

6. If this is not the initial submission for this state directed payment, please indicate if:
- a. ☐ The State is seeking approval of an amendment to an already approved state directed payment.
 - b. ☐ The State is seeking approval for a renewal of a state directed payment for a new rating period.
 - i. If the State is seeking approval of a renewal, please indicate the rating periods for which previous approvals have been granted:
 - c. Please identify the types of changes in this state directed payment that differ from what was previously approved.
 - ☐ Payment Type Change
 - ☐ Provider Type Change
 - ☐ Quality Metric(s) / Benchmark(s) Change
 - ☐ Other; please describe:
- ☐ No changes from previously approved preprint other than rating period(s).
7. ☒ Please use the checkbox to provide an assurance that, in accordance with 42 C.F.R. § 438.6(c)(2)(ii)(F), the payment arrangement is not renewed automatically.

SECTION II: TYPE OF STATE DIRECTED PAYMENT

8. In accordance with 42 C.F.R. § 438.6(c)(2)(ii)(A), describe in detail how the payment arrangement is based on the utilization and delivery of services for enrollees covered under the contract. The State should specifically discuss what must occur in order for the provider to receive the payment (e.g., utilization of services by managed care enrollees, meet or exceed a performance benchmark on provider quality metrics).

Each in-network hospital's final payment amount under the directed payment will be based on the hospital's actual paid Medicaid managed care claims for utilization for the contract rate period, multiplied by the uniform rate increase percentage applicable to that hospital's class.

- a. ☒ Please use the checkbox to provide an assurance that CMS has approved the federal authority for the Medicaid services linked to the services associated with the SDP (i.e., Medicaid State plan, 1115(a) demonstration, 1915(c) waiver, etc.).
- b. Please also provide a link to, or submit a copy of, the authority document(s) with initial submissions and at any time the authority document(s) has been renewed/revised/updated.

State Plan Excerpt on Inpatient and Outpatient Hospital Services

9. Please select the general type of state directed payment arrangement the State is seeking prior approval to implement. (Check all that apply and address the underlying questions for each category selected.)

- a. ☐ **VALUE-BASED PAYMENTS / DELIVERY SYSTEM REFORM:** In accordance with 42 C.F.R. § 438.6(c)(1)(i) and (ii), the State is requiring the MCO, PIHP, or PAHP to implement value-based purchasing models for provider reimbursement, such as alternative payment models (APMs), pay for performance arrangements, bundled payments, or other service payment models intended to recognize value or outcomes over volume of services; or the State is requiring the MCO, PIHP, or PAHP to participate in a multi-payer or Medicaid-specific delivery system reform or performance improvement initiative.

If checked, please answer all questions in Subsection IIA.

- b. ☒ **FEE SCHEDULE REQUIREMENTS:** In accordance with 42 C.F.R. § 438.6(c)(1)(iii)(B) through (D), the State is requiring the MCO, PIHP, or PAHP to adopt a minimum or maximum fee schedule for network providers that provide a particular service under the contract; or the State is requiring the MCO, PIHP, or PAHP to provide a uniform dollar or percentage increase for network providers that provide a particular service under the contract. **[Please note, per the 2020 Medicaid and CHIP final rule at 42 C.F.R. § 438.6(c)(1)(iii)(A), States no longer need to submit a preprint for prior approval to adopt minimum fee schedules using State plan approved rates as defined in 42 C.F.R. § 438.6(a).]**

If checked, please answer all questions in Subsection IIB.

SUBSECTION IIA: VALUE-BASED PAYMENTS (VBP) / DELIVERY SYSTEM REFORM (DSR):

This section must be completed for all state directed payments that are VBP or DSR. This section does not need to be completed for state directed payments that are fee schedule requirements.

10. Please check the type of VBP/DSR State directed payment the State is seeking prior approval for. *Check all that apply; if none are checked, proceed to Section III.*

- ☐ Quality Payment/Pay for Performance (Category 2 APM, or similar)
- ☐ Bundled Payment/Episode-Based Payment (Category 3 APM, or similar)
- ☐ Population-Based Payment/Accountable Care Organization (Category 4 APM, or similar)
- ☐ Multi-Payer Delivery System Reform
- ☐ Medicaid-Specific Delivery System Reform
- ☐ Performance Improvement Initiative
- ☐ Other Value-Based Purchasing Model

11. Provide a brief summary or description of the required payment arrangement selected above and describe how the payment arrangement intends to recognize value or outcomes over volume of services. If “other” was checked above, identify the payment model. The State should specifically discuss what must occur in order for the provider to receive the payment (e.g., meet or exceed a performance benchmark on provider quality metrics).

12. In Table 1 below, identify the measure(s), baseline statistics, and targets that the State will tie to provider performance under this payment arrangement (provider performance measures). Please complete all boxes in the row. To the extent practicable, CMS encourages states to utilize existing, validated, and outcomes-based performance measures to evaluate the payment arrangement, and recommends States use the CMS Adult and Child Core Set Measures when applicable.

TABLE 1: Payment Arrangement Provider Performance Measures

Measure Name and NQF # (if applicable)	Measure Steward/ Developer ¹	Baseline ² Year	Baseline ² Statistic	Performance Measurement Period ³	Performance Target	Notes ⁴
<i>Example: Percent of High-Risk Residents with Pressure Ulcers – Long Stay</i>	<i>CMS</i>	<i>CY 2018</i>	<i>9.23%</i>	<i>Year 2</i>	<i>8%</i>	<i>Example notes</i>
a.						
b.						
c.						
d.						
e.						

1. Baseline data must be added after the first year of the payment arrangement
2. If state-developed, list State name for Steward/Developer.
3. If this is planned to be a multi-year payment arrangement, indicate which year(s) of the payment arrangement that performance on the measure will trigger payment.
4. If the State is using an established measure and will deviate from the measure steward’s measure specifications, please describe here. Additionally, if a state-specific measure will be used, please define the numerator and denominator here.

a. Please describe the methodology used to set the performance targets for each measure.

b. If multiple provider performance measures are involved in the payment arrangement, discuss if the provider must meet the performance target on each measure to receive payment or can providers receive a portion of the payment if they meet the performance target on some but not all measures?

c. For state-developed measures, please briefly describe how the measure was developed?

14. Is the State seeking a multi-year approval of the state directed payment arrangement?

☐ Yes ☐ No

- a. If this payment arrangement is designed to be a multi-year effort, denote the State's managed care contract rating period(s) the State is seeking approval for.
- b. If this payment arrangement is designed to be a multi-year effort and the State is **NOT** requesting a multi-year approval, describe how this application's payment arrangement fits into the larger multi-year effort and identify which year of the effort is addressed in this application.

15. Use the checkboxes below to make the following assurances:

- a. ☐ In accordance with 42 C.F.R. § 438.6(c)(2)(iii)(A), the state directed payment arrangement makes participation in the value-based purchasing initiative, delivery system reform, or performance improvement initiative available, using the same terms of performance, to the class or classes of providers (identified below) providing services under the contract related to the reform or improvement initiative.
- b. ☐ In accordance with 42 C.F.R. § 438.6(c)(2)(iii)(B), the payment arrangement makes use of a common set of performance measures across all of the payers and providers.
- c. ☐ In accordance with 42 C.F.R. § 438.6(c)(2)(iii)(C), the payment arrangement does not set the amount or frequency of the expenditures.
- d. ☐ In accordance with 42 C.F.R. § 438.6(c)(2)(iii)(D), the payment arrangement does not allow the State to recoup any unspent funds allocated for these arrangements from the MCO, PIHP, or PAHP.

SUBSECTION IIB: STATE DIRECTED FEE SCHEDULES:

This section must be completed for all state directed payments that are fee schedule requirements. This section does not need to be completed for state directed payments that are VBP or DSR.

16. Please check the type of state directed payment for which the State is seeking prior approval. Check all that apply; if none are checked, proceed to Section III.

- a. ☐ Minimum Fee Schedule for providers that provide a particular service under the contract *using rates other than State plan approved rates*¹ (42 C.F.R. § 438.6(c)(1)(iii)(B))
- b. ☐ Maximum Fee Schedule (42 C.F.R. § 438.6(c)(1)(iii)(D))
- c. ☒ Uniform Dollar or Percentage Increase (42 C.F.R. § 438.6(c)(1)(iii)(C))

¹ Please note, per the 2020 Medicaid and CHIP final rule at 42 C.F.R. § 438.6(c)(1)(iii)(A), States no longer need to submit a preprint for prior approval to adopt minimum fee schedules that use State plan approved rates as defined in 42 C.F.R. § 438.6(a).

17. If the State is seeking prior approval of a fee schedule (options a or b in Question 16):

- a.** Check the basis for the fee schedule selected above.
 - i.** ☐ The State is proposing to use a fee schedule based on the **State-plan approved rates** as defined in 42 C.F.R. § 438.6(a).²
 - ii.** ☐ The State is proposing to use a fee schedule based on the **Medicare or Medicare-equivalent rate**.
 - iii.** ☐ The State is proposing to use a fee schedule based on an **alternative fee schedule established by the State**.
 - 1.** If the State is proposing an alternative fee schedule, please describe the alternative fee schedule (e.g., 80% of Medicaid State-plan approved rate)
- b.** Explain how the state determined this fee schedule requirement to be reasonable and appropriate.

18. If using a maximum fee schedule (option b in Question 16), please answer the following additional questions:

- a.** ☐ Use the checkbox to provide the following assurance: In accordance with 42 C.F.R. § 438.6(c)(1)(iii)(C), the State has determined that the MCO, PIHP, or PAHP has retained the ability to reasonably manage risk and has discretion in accomplishing the goals of the contract.
- b.** Describe the process for plans and providers to request an exemption if they are under contract obligations that result in the need to pay more than the maximum fee schedule.
- c.** Indicate the number of exemptions to the requirement:
 - i.** Expected in this contract rating period (estimate)
 - ii.** Granted in past years of this payment arrangement
- d.** Describe how such exemptions will be considered in rate development.

² Please note, per the 2020 Medicaid and CHIP final rule at 42 C.F.R. § 438.6(c)(1)(iii)(A), States no longer need to submit a preprint for prior approval to adopt minimum fee schedules that use State plan approved rates as defined in 42 C.F.R. § 438.6(a).

19. If the State is seeking prior approval for a uniform dollar or percentage increase (option c in Question 16), please address the following questions:

- a. Will the state require plans to pay a ☐ uniform dollar amount or a ☐ uniform percentage increase? (*Please select only one.*)
- b. What is the magnitude of the increase (e.g., \$4 per claim or 3% increase per claim?)
Percentages for each class are identified in response to Question 19(d).
- c. Describe how will the uniform increase be paid out by plans (e.g., upon processing the initial claim, a retroactive adjustment done one month after the end of quarter for those claims incurred during that quarter).

See Attachment

- d. Describe how the increase was developed, including why the increase is reasonable and appropriate for network providers that provide a particular service under the contract

See Attachment

SECTION III: PROVIDER CLASS AND ASSESSMENT OF REASONABLENESS

20. In accordance with 42 C.F.R. § 438.6(c)(2)(ii)(B), identify the class or classes of providers that will participate in this payment arrangement by answering the following questions:

- a. Please indicate which general class of providers would be affected by the state directed payment (check all that apply):

- ☒ inpatient hospital service
- ☒ outpatient hospital service
- ☐ professional services at an academic medical center
- ☐ primary care services
- ☐ specialty physician services
- ☐ nursing facility services
- ☐ HCBS/personal care services
- ☒ behavioral health inpatient services
- ☒ behavioral health outpatient services
- ☐ dental services
- ☐ Other:

- b. Please define the provider class(es) (if further narrowed from the general classes indicated above).

Class 1: All acute care hospitals and critical access hospitals not included in Class 2
Class 2: Hospitals owned or controlled by the University of North Carolina Health Care System (UNCHS) and Vidant Medical Center (d/b/a ECU Health Medical Center).

- c. Provide a justification for the provider class defined in Question 20b (e.g., the provider class is defined in the State Plan.) If the provider class is defined in the State Plan, please provide a link to or attach the applicable State Plan pages to the preprint submission. Provider classes cannot be defined to only include providers that provide intergovernmental transfers.

The classes of hospitals that are eligible for the directed payment are based on the classes identified in 4.19-A Section (d)(5) of the State Plan. All acute care hospitals, including critical access hospitals, identified in this section of the State Plan are eligible for the directed payment. A copy of 4.19-A Section (d)(5) of the State Plan is attached.

21. In accordance with 42 C.F.R. § 438.6(c)(2)(ii)(B), describe how the payment arrangement directs expenditures equally, using the same terms of performance, for the class or classes of providers (identified above) providing the service under the contract.

The directed payment is a uniform percentage increase for every in-network hospital within each hospital class, which applies to all inpatient and outpatient hospital services that each in-network hospital provides under the contract. The increase is the same regardless of which PHP the patient is enrolled in.

22. For the services where payment is affected by the state directed payment, how will the state directed payment interact with the negotiated rate(s) between the plan and the provider? Will the state directed payment:

- a. ☐ Replace the negotiated rate(s) between the plan(s) and provider(s).
b. ☐ Limit but not replace the negotiated rate(s) between the plans(s) and provider(s).
c. ☒ Require a payment be made in addition to the negotiated rate(s) between the plan(s) and provider(s).

23. For payment arrangements that are intended to require plans to make a payment in addition to the negotiated rates (as noted in option c in Question 22), please provide an analysis in Table 2 showing the impact of the state directed payment on payment levels for each provider class. This provider payment analysis should be completed distinctly for each service type (e.g., inpatient hospital services, outpatient hospital services, etc.).

This should include an estimate of the base reimbursement rate the managed care plans pay to these providers as a percent of Medicare, or some other standardized measure, and the effect the increase from the state directed payment will have on total payment. *Ex: The average base payment level from plans to providers is 80% of Medicare and this SDP is expected to increase the total payment level from 80% to 100% of Medicare.*

TABLE 2: Provider Payment Analysis

Provider Class(es)	Average Base Payment Level from Plans to Providers (absent the SDP)	Effect on Total Payment Level of State Directed Payment (SDP)	Effect on Total Payment Level of Other SDPs	Effect on Total Payment Level of Pass-Through Payments (PTPs)	Total Payment Level (after accounting for all SDPs and PTPs)
<i>Ex: Rural Inpatient Hospital Services</i>	80%	20%	N/A	N/A	100%
a. Class 1 Inpatient and Outpatient Services	100.00%	104.30%	0.00%		204.30%
b. Class 2 Inpatient and Outpatient Services	100.00%	74.40%	45.10%		219.50%
c.	0.00%	0.00%	0.00%		0.00%
d.	0.00%	0.00%	0.00%		0.00%
e.	0.00%	0.00%	0.00%		0.00%
f.	0.00%	0.00%	0.00%		0.00%
g.	0.00%	0.00%	0.00%		0.00%

24. Please indicate if the data provided in Table 2 above is in terms of a percentage of:

- a. ☒ Medicare payment/cost
- b. ☐ State-plan approved rates as defined in 42 C.F.R. § 438.6(a) *(Please note, this rate cannot include supplemental payments.)*
- c. ☐ Other; Please define:

25. Does the State also require plans to pay any other state directed payments for providers eligible for the provider class described in Question 20b? ☒ Yes ☐ No

If yes, please provide information requested under the column "Other State Directed Payments" in Table 2.

- 26.** Does the State also require plans to pay pass-through payments as defined in 42 C.F.R. § 438.6(a) to any of the providers eligible for any of the provider class(es) described in Question 20b? ☐ Yes ☒ No

If yes, please provide information requested under the column "Pass-Through Payments" in Table 2.

- 27.** Please describe the data sources and methodology used for the analysis provided in response to Question 23.

Please see response to question 19(d) in the Attachment.

- 28.** Please describe the State's process for determining how the proposed state directed payment was appropriate and reasonable.

DHB determined that the percent payment increase for each class was appropriate and reasonable because it brings the reimbursement to each class of hospitals, for the in-network Medicaid managed care services they provide, closer to non-governmental managed care rates in support of DHB policies and Medicaid managed care access goals.

SECTION IV: INCORPORATION INTO MANAGED CARE CONTRACTS

- 29.** States must adequately describe the contractual obligation for the state directed payment in the state's contract with the managed care plan(s) in accordance with 42 C.F.R. § 438.6(c). Has the state already submitted all contract action(s) to implement this state directed payment? ☐ Yes ☒ No

a. If yes:

- i.** What is/are the state-assigned identifier(s) of the contract actions provided to CMS?
- ii.** Please indicate where (page or section) the state directed payment is captured in the contract action(s).

b. If no, please estimate when the state will be submitting the contract actions for review.

DHB will submit the contract action upon (1) the North Carolina General Assembly's enactment of changes to the hospital assessment supporting a portion of the non-federal share for this directed payment, and (2) CMS approval of the preprint.

SECTION V: INCORPORATION INTO THE ACTUARIAL RATE CERTIFICATION

Note: Provide responses to the questions below for the first rating period if seeking approval for multi-year approval.

30. Has/Have the actuarial rate certification(s) for the rating period for which this state directed payment applies been submitted to CMS? ☐ Yes ☒ No

a. If no, please estimate when the state will be submitting the actuarial rate certification(s) for review.

b. If yes, provide the following information in the table below for each of the actuarial rate certification review(s) that will include this state directed payment.

Table 3: Actuarial Rate Certification(s)

Control Name Provided by CMS (List each actuarial rate certification separately)	Date Submitted to CMS	Does the certification incorporate the SDP?	If so, indicate where the state directed payment is captured in the certification (page or section)
i.			
ii.			
iii.			
iv.			
v.			

Please note, states and actuaries should consult the most recent Medicaid Managed Care Rate Development Guide for how to document state directed payments in actuarial rate certification(s). The actuary's certification must contain all of the information outlined; if all required documentation is not included, review of the certification will likely be delayed.)

c. If not currently captured in the State's actuarial certification submitted to CMS, note that the regulations at 42 C.F.R. § 438.7(b)(6) requires that all state directed payments are documented in the State's actuarial rate certification(s). CMS will not be able to approve the related contract action(s) until the rate certification(s) has/have been amended to account for all state directed payments. Please provide an estimate of when the State plans to submit an amendment to capture this information.

The state plans to submit amended certification concurrent with or following the contract action.

31. Describe how the State will/has incorporated this state directed payment arrangement in the applicable actuarial rate certification(s) (please select one of the options below):
- a. ☐ An adjustment applied in the development of the monthly base capitation rates paid to plans.
 - b. ☒ Separate payment term(s) which are captured in the applicable rate certification(s) but paid separately to the plans from the monthly base capitation rates paid to plans.
 - c. ☐ Other, please describe:
32. States should incorporate state directed payment arrangements into actuarial rate certification(s) as an adjustment applied in the development of the monthly base capitation rates paid to plans as this approach is consistent with the rate development requirements described in 42 C.F.R. § 438.5 and consistent with the nature of risk-based managed care. For state directed payments that are incorporated in another manner, particularly through separate payment terms, provide additional justification as to why this is necessary and what precludes the state from incorporating as an adjustment applied in the development of the monthly base capitation rates paid to managed care plans.
See Attachment.
33. ☒ In accordance with 42 C.F.R. § 438.6(c)(2)(i), the State assures that all expenditures for this payment arrangement under this section are developed in accordance with 42 C.F.R. § 438.4, the standards specified in 42 C.F.R. § 438.5, and generally accepted actuarial principles and practices.

SECTION VI: FUNDING FOR THE NON-FEDERAL SHARE

34. Describe the source of the non-federal share of the payment arrangement. Check all that apply:
- a. ☐ State general revenue
 - b. ☒ Intergovernmental transfers (IGTs) from a State or local government entity
 - c. ☒ Health Care-Related Provider tax(es) / assessment(s)
 - d. ☐ Provider donation(s)
 - e. ☐ Other, specify:
35. For any payment funded by **IGTs (option b in Question 34)**,
- a. Provide the following (respond to each column for all entities transferring funds). If there are more transferring entities than space in the table, please provide an attachment with the information requested in the table.

Table 4: IGT Transferring Entities

Name of Entities transferring funds (enter each on a separate line)	Operational nature of the Transferring Entity (State, County, City, Other)	Total Amounts Transferred by This Entity	Does the Transferring Entity have General Taxing Authority? (Yes or No)	Did the Transferring Entity receive appropriations? If not, put N/A. If yes, identify the level of appropriations	Is the Transferring Entity eligible for payment under this state directed payment? (Yes or No)
i. See Attachment					
ii.					
iii.					
iv.					
v.					
vi.					
vii.					
viii.					
ix.					
x.					

- b.** ☐ Use the checkbox to provide an assurance that no state directed payments made under this payment arrangement funded by IGTs are dependent on any agreement or arrangement for providers or related entities to donate money or services to a governmental entity.
- c.** Provide information or documentation regarding any written agreements that exist between the State and healthcare providers or amongst healthcare providers and/or related entities relating to the non-federal share of the payment arrangement. This should include any written agreements that may exist with healthcare providers to support and finance the non-federal share of the payment arrangement. Submit a copy of any written agreements described above.

36. For any state directed payments funded by provider taxes/assessments (option c in Question 34),

- a.** Provide the following (respond to each column for all entries). If there are more entries than space in the table, please provide an attachment with the information requested in the table.

Table 5: Health Care-Related Provider Tax/Assessment(s)

Name of the Health Care-Related Provider Tax / Assessment (enter each on a separate line)	Identify the permissible class for this tax / assessment	Is the tax / assessment broad-based?	Is the tax / assessment uniform?	Is the tax / assessment under the 6% indirect hold harmless limit?	If not under the 6% indirect hold harmless limit, does it pass the “75/75” test?	Does it contain a hold harmless arrangement that guarantees to return all or any portion of the tax payment to the tax payer?
i. Assessment under consideration by NC General Assembly (see attachment for additional details)	Inpatient and Outpatient Hospital Services	No	No	Yes		No
ii.						
iii.						
iv.						
v.						

- b. If the state has any waiver(s) of the broad-based and/or uniform requirements for any of the health care-related provider taxes/assessments, list the waiver(s) and its current status:

Table 6: Health Care-Related Provider Tax/Assessment Waivers

Name of the Health Care-Related Provider Tax/Assessment Waiver (enter each on a separate line)	Submission Date	Current Status (Under Review, Approved)	Approval Date
i.			
ii.			
iii.			
iv.			
v.			

37. For any state directed payments funded by **provider donations (option d in Question 34)**, please answer the following questions:

- a. Is the donation bona-fide? ☐ Yes ☐ No
- b. Does it contain a hold harmless arrangement to return all or any part of the donation to the donating entity, a related entity, or other provider furnishing the same health care items or services as the donating entity within the class?
☐ Yes ☐ No

38. ☒ **For all state directed payment arrangements**, use the checkbox to provide an assurance that in accordance with 42 C.F.R. § 438.6(c)(2)(ii)(E), the payment arrangement does not condition network provider participation on the network provider entering into or adhering to intergovernmental transfer agreements.

SECTION VII: QUALITY CRITERIA AND FRAMEWORK FOR ALL PAYMENT ARRANGEMENTS

39. ☒ Use the checkbox below to make the following assurance, “In accordance with 42 C.F.R. § 438.6(c)(2)(ii)(C), the State expects this payment arrangement to advance at least one of the goals and objectives in the quality strategy required per 42 C.F.R. § 438.340.”
40. Consistent with 42 C.F.R. § 438.340(d), States must post the final quality strategy online beginning July 1, 2018. Please provide:
- a. A hyperlink to State’s most recent quality strategy: <https://medicaid.ncdhhs.gov/media/9968/download?attachment>.
 - b. The effective date of quality strategy. **June 16, 2021**
41. If the State is currently updating the quality strategy, please submit a draft version, and provide:
- a. A target date for submission of the revised quality strategy (month and year):
 - b. Note any potential changes that might be made to the goals and objectives.

Note: The State should submit the final version to CMS as soon as it is finalized. To be in compliance with 42 C.F.R. § 438.340(c)(2) the quality strategy must be updated no less than once every 3-years.

42. To obtain written approval of this payment arrangement, a State must demonstrate that each state directed payment arrangement expects to advance at least one of the goals and objectives in the quality strategy. In the Table 7 below, identify the goal(s) and objective(s), as they appear in the Quality Strategy (include page numbers), this payment arrangement is expected to advance. If additional rows are required, please attach.

Table 7: Payment Arrangement Quality Strategy Goals and Objectives

Goal(s)	Objective(s)	Quality strategy page
<i>Example: Improve care coordination for enrollees with behavioral health conditions</i>	<i>Example: Increase the number of managed care patients receiving follow-up behavior health counseling by 15%</i>	5
a. Goal 1: Ensure appropriate access to care	Objective 1.1: Ensure timely access to care Objective 1.2: Maintain Medicaid provider engagement	9
b.		
c.		
d.		

43. Describe how this payment arrangement is expected to advance the goal(s) and objective(s) identified in Table 7. If this is part of a multi-year effort, describe this both in terms of this year's payment arrangement and in terms of that of the multi-year payment arrangement.

This payment arrangement is expected to advance these goals and objectives, this year and in future years, primarily by maintaining and enhancing access to care for Medicaid managed care enrollees, which will improve health outcomes and quality of care for Medicaid managed care enrollees. We anticipate the payment arrangement will support the financial sustainability of hospitals that serve large proportions of Medicaid-covered individuals. This will in turn ensure a sufficient number of hospitals engage in each managed care plan's network to provide timely access to services. Over the longer term, it is also anticipated that these payments will support provider efforts to improve performance, resulting in higher quality services provided to Medicaid managed care enrollees.

44. Please complete the following questions regarding having an evaluation plan to measure the degree to which the payment arrangement advances at least one of the goals and objectives of the State's quality strategy. To the extent practicable, CMS encourages States to utilize existing, validated, and outcomes-based performance measures to evaluate the payment arrangement, and recommends States use the CMS Adult and Child Core Set Measures, when applicable.

- a.** ☐ In accordance with 42 C.F.R. § 438.6(c)(2)(ii)(D), use the checkbox to assure the State has an evaluation plan which measures the degree to which the payment arrangement advances at least one of the goals and objectives in the quality strategy required per 42 C.F.R. § 438.340, and that the evaluation conducted will be *specific* to this payment arrangement. *Note:* States have flexibility in how the evaluation is conducted and may leverage existing resources, such as their 1115 demonstration evaluation if this payment arrangement is tied to an 1115 demonstration or their External Quality Review validation activities, as long as those evaluation or validation activities are *specific* to this payment arrangement and its impacts on health care quality and outcomes.

- b.** Describe how and when the State will review progress on the advancement of the State's goal(s) and objective(s) in the quality strategy identified in Question 42. For each measure the State intends to use in the evaluation of this payment arrangement, provide in Table 8 below: 1) the baseline year, 2) the baseline statistics, and 3) the performance targets the State will use to track the impact of this payment arrangement on the State's goals and objectives. Please attach the State's evaluation plan for this payment arrangement.

TABLE 8: Evaluation Measures, Baseline and Performance Targets

Measure Name and NQF # (if applicable)	Baseline Year	Baseline Statistic	Performance Target	Notes ¹
<i>Example: Flu Vaccinations for Adults Ages 19 to 64 (FVA-AD); NQF # 0039</i>	<i>CY 2019</i>	<i>34%</i>	<i>Increase the percentage of adults 18–64 years of age who report receiving an influenza vaccination by 1 percentage point per year</i>	<i>Example notes</i>
i. Getting Care Quickly Measure Steward: AHRQ CAHPS Survey Health Plan Survey 5.0, Adult Version, and CAHPS Health Plan Survey 5.0, Child Version NQF #: 0006	CY 2020	Adult 80.8% Child 93.9% CY2019	Increase or maintain percentage between 2023 and 2024	
ii. Getting Needed Care Measure Steward: AHRQ CAHPS Survey Health Plan Survey 5.0, Adult Version, and CAHPS Health Plan Survey 5.0, Child Version NQF#: 0006	CY 2020	Adult 82.0% Child 89.0% CY2019	Increase or maintain percentage between 2023 and 2024	
iii.				
iv.				

1. If the State will deviate from the measure specification, please describe here. If a State-specific measure will be used, please define the numerator and denominator here. Additionally, describe any planned data or measure stratifications (for example, age, race, or ethnicity) that will be used to evaluate the payment arrangement.

- c. If this is any year other than year 1 of a multi-year effort, describe (or attach) prior year(s) evaluation findings and the payment arrangement's impact on the goal(s) and objective(s) in the State's quality strategy. Evaluation findings must include 1) historical data; 2) prior year(s) results data; 3) a description of the evaluation methodology; and 4) baseline and performance target information from the prior year(s) preprint(s) where applicable. If full evaluation findings from prior year(s) are not available, provide partial year(s) findings and an anticipated date for when CMS may expect to receive the full evaluation findings.

Attachment to 42 CFR 438.6(c) Preprint

Question 4 (additional note)

Estimated payment amounts included in response to Question 4 assume one month of Medicaid expansion enrollment in SFY 2023 (June 1 – June 30, 2023).

Question 19(c)

The hospital directed payment program will be paid by PHPs using the method below:

Pay hospitals an annual interim payment using projected SFY 2023 experience. Each hospital will receive one annual interim lump-sum payment equal to the Payment Increase Percentages (described in response to Question 19(d)) for the applicable hospital class multiplied by the hospital's 'Projected 2023 Managed Care Payments'. The projected 2023 Managed Care Payments will be based on either (1) SFY 2022 managed care encounter data, if such data are available at the time interim directed payments are calculated, or (2) estimated Medicaid managed care payments as described in response to Question 19(d), less directed payments made to class 2 (UNC and Vidant) under an existing arrangement already approved by CMS.

Reconcile interim lump-sum payments based on actual utilization. The interim payments will be reconciled using actual contract year utilization after the end of the contract year. DHB will multiply Payment Increase Percentages by actual 2023 managed care payments (inclusive of at least six months of claims runout) to arrive at final directed payment amounts. Any differences in final vs. interim directed payments will be settled by the PHPs and each hospital through recoupment of payments (if the final payment amount based on actual utilization is less than the annual interim payment, which is based on projected utilization) or an additional payment (if the final payment based on actual utilization is more than the annual interim payment based on projected utilization). If interim directed payments to PHPs are more or less than final directed payment amounts, DHB would follow a similar reconciliation process with the PHPs, as necessary.

Beginning in SFY 2024, interim directed payments would be made on a quarterly basis. Additional details on the quarterly interim payment process will be included in the SFY 2024 preprint.

Question 19(d)

DHB calculated Payment Increase Percentages for each class based on the projected additional payments needed for each hospital class to receive reimbursement equivalent to the average commercial rate. DHB used the following data points in this calculation:

- **Non-governmental (i.e., commercial) managed care payments and costs** – calculated using hospital cost reports submitted for FYE19 from the Healthcare Cost Report Information System (HCRIS) public use files by subtracting the Medicare, Medicaid, CHIP, charity care, and indigent data from the total payments and costs.
- **Estimated Medicaid managed care payments and costs** – Due to the recent transition to Medicaid managed care on July 1, 2021, a full year of validated Medicaid managed care encounter data is not yet available. As such, DHB estimated Medicaid Managed Care Payments and Costs using audited 2018 Medicaid Disproportionate Share Hospital data. Because this data source is pre-Medicaid managed care transition, DHB applied (1) an estimated Medicaid managed care take-up rate, (2) Medicare pay-to-cost ratios from FYE19 HCRIS hospital cost reports, and (3) inflationary factors to estimate post-Medicaid managed care transition utilization. For class 2 (UNC/Vidant), estimated Medicaid managed care

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Attachment to 42 CFR 438.6(c) Preprint

payments also includes projected directed payments for an existing arrangement already approved by CMS.

DHB identified the payment equivalent for commercial managed care payers for each class and calculated the total payments needed for them to receive 100% of that amount. DHB then determined a uniform Payment Increase Percentage for each hospital class by dividing each class's total directed payment amount by the estimated Medicaid Managed Care Payments (excluding other state directed payments) for the hospital class, as follows:

Hospital Directed Payment Class	<i>Estimated Medicaid Managed Care Payments</i>	Difference Between Projected Medicaid Managed Care Payments and ACR	Payment Increase Percentage
Class 1 – Acute/CAH	\$2,227,865,175	\$2,323,614,239	104.3%
Class 2 – UNC/Vidant	\$390,416,135	\$290,415,634	74.4%*
Total	\$2,618,281,309	\$2,614,029,873	

*Because percentage increase will be applied to Medicaid managed care base payments only, denominator for calculating percentage increase subtracts current directed payments made to UNC/Vidant.

After the contract year, DHB will apply the Payment Increase Percentages to actual 2023 managed care payments for each hospital to arrive at final directed payment amounts. Final directed payment amounts will then be reconciled with the interim directed payments to ensure that the directed payments paid to each hospital and class from the PHPs are based on actual 2023 managed care utilization.

Question 32

The separate payment term allows DHB to ensure that per-service directed payments are tied to actual utilization during the contract year. In addition, a separate payment term streamlines administration of the program.

DHB's actuary will account for the directed payment consistent with CMS's Medicaid Managed Care Rate Development Guide.¹ Specifically, the actuary will include an estimated payment amount in a rate amendment that matches the amount included in the preprint. Once final payments have been made after completion of the contract year (as described in response to Question 19), the actuary will use the actual 2023 managed care payment data (inclusive of the directed payment) to certify final health plan rates.

Question 35a (Table 4)

¹ DHB will submit actuarial documentation to CMS "after the rating period is complete ... that incorporates the total amount of the payment into the rate certification's rate cells ... as if the payment information (e.g., providers receiving the payment, amount of the payment, utilization that occurred, enrollees seen, etc.) had been known when the rates were initially developed." CMS, 2022-2023 Medicaid Managed Care Rate Development Guide, 29 (April 2022) ([[HYPERLINK "https://www.medicaid.gov/medicaid/managed-care/downloads/2022-2023-medicaid-rate-guide-03282022.pdf"](https://www.medicaid.gov/medicaid/managed-care/downloads/2022-2023-medicaid-rate-guide-03282022.pdf)]).

Attachment to 42 CFR 438.6(c) Preprint

Transferring Entity Name	Operational Nature (State, County, City, Other)	Total Amounts Transferred (Estimated)	General Taxing Authority? (Yes or No)	Receive appropriations? If not, put N/A. If yes, identify the level.	Eligible for directed payment? (Yes or No)
Atrium Health Anson	NSGO	\$154,206	No	N/A	Yes
Atrium Health Cabarrus	NSGO	\$4,843,077	No	N/A	Yes
Atrium Health Cleveland	NSGO	\$1,799,012	No	N/A	Yes
Atrium Health Lincoln	NSGO	\$1,111,326	No	N/A	Yes
Atrium Health Pineville	NSGO	\$1,066,815	No	N/A	Yes
Atrium Health Stanly	NSGO	\$826,318	No	N/A	Yes
Atrium Health Union	NSGO	\$1,797,948	No	N/A	Yes
Atrium Health University	NSGO	\$1,649,434	No	N/A	Yes
Betsy Johnson Hospital	NSGO	\$1,026,419	No	N/A	Yes
Caldwell Memorial Hospital	SGO	\$1,021,233	No	N/A	Yes
Cape Fear Valley Hoke Hospital	NSGO	\$307,820	No	N/A	Yes
Cape Fear Valley Medical Center	NSGO	\$9,236,709	No	N/A	Yes
Carolinaeast Medical Center	NSGO	\$1,282,183	No	N/A	Yes
Carolinas Medical Center	NSGO	\$21,453,684	No	N/A	Yes
Caromont Regional Medical Center (Gaston)	NSGO	\$4,408,963	No	N/A	Yes
Carteret General Hospital	NSGO	\$635,623	No	N/A	Yes
Catawba Valley Medical Center	NSGO	\$2,420,932	No	N/A	Yes
Charlotte Institute Of Rehabilitation	NSGO	\$1,129,379	No	N/A	Yes
Chatham Hospital	SGO	\$311,793	No	N/A	Yes
Columbus Regional Healthcare	NSGO	\$720,355	No	N/A	Yes
ECU Health North Hospital	NSGO	\$680,085	No	N/A	Yes
Granville Health System	NSGO	\$313,151	No	N/A	Yes
Iredell Memorial Hospital	NSGO	\$944,654	No	N/A	Yes
Johnston Health	NSGO	\$2,314,714	No	N/A	Yes
Margaret R Pardee Mem Hospital	NSGO	\$822,385	No	N/A	Yes
Nash General Hospital	NSGO	\$3,043,560	No	N/A	Yes
Northern Regional Hospital	NSGO	\$434,489	No	N/A	Yes
Onslow Memorial Hospital	NSGO	\$2,092,421	No	N/A	Yes
Rex Hospital	SGO	\$2,654,093	No	N/A	Yes
Sampson Regional Medical Center	NSGO	\$426,161	No	N/A	Yes
UNC Hospitals	SGO	\$23,133,091	No	N/A	Yes
UNC Lenoir Memorial Hospital	NSGO	\$1,744,284	No	N/A	Yes
UNC Rockingham	SGO	\$425,148	No	N/A	Yes
Vidant Duplin Hospital	NSGO	\$519,437	No	N/A	Yes
Vidant Edgecombe Hospital	NSGO	\$1,055,115	No	N/A	Yes

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Attachment to 42 CFR 438.6(c) Preprint

Transferring Entity Name	Operational Nature (State, County, City, Other)	Total Amounts Transferred (Estimated)	General Taxing Authority? (Yes or No)	Receive appropriations? If not, put N/A. If yes, identify the level.	Eligible for directed payment? (Yes or No)
Vidant Medical Center - Pitt (d/b/a ECU Health Medical Center).	NSGO	\$13,483,038	No	N/A	Yes
Vidant Roanoke-Chowan Hospital	NSGO	\$604,156	No	N/A	Yes
Watauga Medical Center	NSGO	\$565,549	No	N/A	Yes

Question 36

North Carolina's General Assembly is considering changes to the State's hospital assessment structure (See [[HYPERLINK "https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_108A.html"](https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_108A.html)]) to support a portion of the non-federal share for this directed payment. DHB does not have the authority to collect an assessment related to this directed payment, and will not implement the directed payment, until changes to the assessment are enacted by the General Assembly.

Message

From: Levinson, Adam F [Adam.Levinson@dhhs.nc.gov]
Sent: 2/28/2023 5:16:07 PM
To: CMS State Directed Payment [statedirectedpayment@cms.hhs.gov]; Giles, John (CMS/CMCS) [john.giles1@cms.hhs.gov]; Gibson, Alexis (CMS/CMCS) [alexis.gibson@cms.hhs.gov]
CC: Ludlam, Jay [jay.ludlam@dhhs.nc.gov]; Lerche, Julia K [julia.lerche@dhhs.nc.gov]; Sandoe, Emma [Emma.Sandoe@dhhs.nc.gov]; Walker, Lauryn [lauryn.walker@dhhs.nc.gov]; Flowers, Jim [jim.flowers@dhhs.nc.gov]; Little, Reginald [reggie.little@dhhs.nc.gov]; Staton, Betty J [Betty.J.Staton@dhhs.nc.gov]; Williams, Cecilia [cecilia.williams@dhhs.nc.gov]; Herring, Avi [aherring@manatt.com]; Karl, Anne O. [akarl@manatt.com]; Adam Striar [astriar@manatt.com]; Prost, Michelle [mprost@manatt.com]
Subject: NCDHHS Draft Pre-Print: Healthcare Access & Stabilization Program (HASP)
Attachments: NC HASP Preprint - 2.28.2023.pdf; NC HASP Preprint Attachment - 2.28.2023.docx

Good Afternoon CMS State Directed Payment Team,

I am writing to submit on behalf of the North Carolina Department of Health and Human Services (the Department) a Section 438.6(c) directed payment preprint to authorize the State's proposed Healthcare Access & Stabilization Program (HASP). The Department intends to implement HASP in tandem with Medicaid expansion as part of a multi-pronged effort to improve access to care for low-income North Carolinians. As described in the preprint, the Department does not yet have state legislative authority to implement HASP or Medicaid expansion. However, to ensure the Department is able to implement HASP in an expeditious fashion once it is authorized by legislation, we are sharing a draft preprint with CMS in parallel with state legislative deliberations. The Department will reach out to CMS to schedule an initial call to review the draft preprint.

As always, we appreciate your partnership and look forward to working with you to improve access to care for low-income North Carolinians.

Best,
Adam

Adam Levinson
Chief Financial Officer
NC Medicaid
Division of Health Benefits
Department of Health and Human Services
Pronouns: he / him / his
adam.levinson@dhhs.nc.gov

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Kirby Building
2501 Mail Service Center
Raleigh, NC 27699-2501

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Section 438.6(c) Preprint

42 C.F.R. § 438.6(c) provides States with the flexibility to implement delivery system and provider payment initiatives under MCO, PIHP, or PAHP Medicaid managed care contracts (i.e., state directed payments). 42 C.F.R. § 438.6(c)(1) describes types of payment arrangements that States may use to direct expenditures under the managed care contract. Under 42 C.F.R. § 438.6(c)(2)(ii), contract arrangements that direct an MCO's, PIHP's, or PAHP's expenditures under paragraphs (c)(1)(i) through (c)(1)(ii) and (c)(1)(iii)(B) through (D) must have written approval from CMS prior to implementation and before approval of the corresponding managed care contract(s) and rate certification(s). This preprint implements the prior approval process and must be completed, submitted, and approved by CMS before implementing any of the specific payment arrangements described in 42 C.F.R. § 438.6(c)(1)(i) through (c)(1)(ii) and (c)(1)(iii)(B) through (D). Please note, per the 2020 Medicaid and CHIP final rule at 42 C.F.R. § 438.6(c)(1)(iii)(A), States no longer need to submit a preprint for prior approval to adopt minimum fee schedules using State plan approved rates as defined in 42 C.F.R. § 438.6(a).

Submit all state directed payment preprints for prior approval to:
StateDirectedPayment@cms.hhs.gov.

SECTION I: DATE AND TIMING INFORMATION

1. Identify the State's managed care contract rating period(s) for which this payment arrangement will apply (for example, July 1, 2020 through June 30, 2021):
July 1, 2022 - June 30, 2023
2. Identify the State's requested start date for this payment arrangement (for example, January 1, 2021). *Note, this should be the start of the contract rating period unless this payment arrangement will begin during the rating period.* July 1, 2022
3. Identify the managed care program(s) to which this payment arrangement will apply:
Standard Plan Services
4. Identify the estimated **total dollar amount** (federal and non-federal dollars) of this state directed payment: \$2,697,046,623 (see additional note in attachment)
 - a. Identify the estimated federal share of this state directed payment: 2,031,577,838
 - b. Identify the estimated non-federal share of this state directed payment: \$665,468,785

Please note, the estimated total dollar amount and the estimated federal share should be described for the rating period in Question 1. If the State is seeking a multi-year approval (which is only an option for VBP/DSR payment arrangements (42 C.F.R. § 438.6(c)(1)(i)-(ii))), States should provide the estimates per rating period. For amendments, states should include the change from the total and federal share estimated in the previously approved preprint.

5. Is this the initial submission the State is seeking approval under 42 C.F.R. § 438.6(c) for this state directed payment arrangement? ☒ Yes ☐ No

6. If this is not the initial submission for this state directed payment, please indicate if:
- a. ☐ The State is seeking approval of an amendment to an already approved state directed payment.
 - b. ☐ The State is seeking approval for a renewal of a state directed payment for a new rating period.
 - i. If the State is seeking approval of a renewal, please indicate the rating periods for which previous approvals have been granted:
 - c. Please identify the types of changes in this state directed payment that differ from what was previously approved.
 - ☐ Payment Type Change
 - ☐ Provider Type Change
 - ☐ Quality Metric(s) / Benchmark(s) Change
 - ☐ Other; please describe:
- ☐ No changes from previously approved preprint other than rating period(s).
7. ☒ Please use the checkbox to provide an assurance that, in accordance with 42 C.F.R. § 438.6(c)(2)(ii)(F), the payment arrangement is not renewed automatically.

SECTION II: TYPE OF STATE DIRECTED PAYMENT

8. In accordance with 42 C.F.R. § 438.6(c)(2)(ii)(A), describe in detail how the payment arrangement is based on the utilization and delivery of services for enrollees covered under the contract. The State should specifically discuss what must occur in order for the provider to receive the payment (e.g., utilization of services by managed care enrollees, meet or exceed a performance benchmark on provider quality metrics).

Each in-network hospital's final payment amount under the directed payment will be based on the hospital's actual paid Medicaid managed care claims for utilization for the contract rate period, multiplied by the uniform rate increase percentage applicable to that hospital's class.

- a. ☒ Please use the checkbox to provide an assurance that CMS has approved the federal authority for the Medicaid services linked to the services associated with the SDP (i.e., Medicaid State plan, 1115(a) demonstration, 1915(c) waiver, etc.).
- b. Please also provide a link to, or submit a copy of, the authority document(s) with initial submissions and at any time the authority document(s) has been renewed/revised/updated.

State Plan Excerpt on Inpatient and Outpatient Hospital Services

9. Please select the general type of state directed payment arrangement the State is seeking prior approval to implement. (Check all that apply and address the underlying questions for each category selected.)

- a. ☐ **VALUE-BASED PAYMENTS / DELIVERY SYSTEM REFORM:** In accordance with 42 C.F.R. § 438.6(c)(1)(i) and (ii), the State is requiring the MCO, PIHP, or PAHP to implement value-based purchasing models for provider reimbursement, such as alternative payment models (APMs), pay for performance arrangements, bundled payments, or other service payment models intended to recognize value or outcomes over volume of services; or the State is requiring the MCO, PIHP, or PAHP to participate in a multi-payer or Medicaid-specific delivery system reform or performance improvement initiative.

If checked, please answer all questions in Subsection IIA.

- b. ☒ **FEE SCHEDULE REQUIREMENTS:** In accordance with 42 C.F.R. § 438.6(c)(1)(iii)(B) through (D), the State is requiring the MCO, PIHP, or PAHP to adopt a minimum or maximum fee schedule for network providers that provide a particular service under the contract; or the State is requiring the MCO, PIHP, or PAHP to provide a uniform dollar or percentage increase for network providers that provide a particular service under the contract. **[Please note, per the 2020 Medicaid and CHIP final rule at 42 C.F.R. § 438.6(c)(1)(iii)(A), States no longer need to submit a preprint for prior approval to adopt minimum fee schedules using State plan approved rates as defined in 42 C.F.R. § 438.6(a).]**

If checked, please answer all questions in Subsection IIB.

SUBSECTION IIA: VALUE-BASED PAYMENTS (VBP) / DELIVERY SYSTEM REFORM (DSR):

This section must be completed for all state directed payments that are VBP or DSR. This section does not need to be completed for state directed payments that are fee schedule requirements.

10. Please check the type of VBP/DSR State directed payment the State is seeking prior approval for. *Check all that apply; if none are checked, proceed to Section III.*

- ☐ Quality Payment/Pay for Performance (Category 2 APM, or similar)
- ☐ Bundled Payment/Episode-Based Payment (Category 3 APM, or similar)
- ☐ Population-Based Payment/Accountable Care Organization (Category 4 APM, or similar)
- ☐ Multi-Payer Delivery System Reform
- ☐ Medicaid-Specific Delivery System Reform
- ☐ Performance Improvement Initiative
- ☐ Other Value-Based Purchasing Model

11. Provide a brief summary or description of the required payment arrangement selected above and describe how the payment arrangement intends to recognize value or outcomes over volume of services. If “other” was checked above, identify the payment model. The State should specifically discuss what must occur in order for the provider to receive the payment (e.g., meet or exceed a performance benchmark on provider quality metrics).

12. In Table 1 below, identify the measure(s), baseline statistics, and targets that the State will tie to provider performance under this payment arrangement (provider performance measures). Please complete all boxes in the row. To the extent practicable, CMS encourages states to utilize existing, validated, and outcomes-based performance measures to evaluate the payment arrangement, and recommends States use the CMS Adult and Child Core Set Measures when applicable.

TABLE 1: Payment Arrangement Provider Performance Measures

Measure Name and NQF # (if applicable)	Measure Steward/ Developer ¹	Baseline ² Year	Baseline ² Statistic	Performance Measurement Period ³	Performance Target	Notes ⁴
<i>Example: Percent of High-Risk Residents with Pressure Ulcers – Long Stay</i>	<i>CMS</i>	<i>CY 2018</i>	<i>9.23%</i>	<i>Year 2</i>	<i>8%</i>	<i>Example notes</i>
a.						
b.						
c.						
d.						
e.						

1. Baseline data must be added after the first year of the payment arrangement
2. If state-developed, list State name for Steward/Developer.
3. If this is planned to be a multi-year payment arrangement, indicate which year(s) of the payment arrangement that performance on the measure will trigger payment.
4. If the State is using an established measure and will deviate from the measure steward’s measure specifications, please describe here. Additionally, if a state-specific measure will be used, please define the numerator and denominator here.

a. Please describe the methodology used to set the performance targets for each measure.

b. If multiple provider performance measures are involved in the payment arrangement, discuss if the provider must meet the performance target on each measure to receive payment or can providers receive a portion of the payment if they meet the performance target on some but not all measures?

5

14. Is the State seeking a multi-year approval of the state directed payment arrangement?

☐ Yes ☐ No

- a. If this payment arrangement is designed to be a multi-year effort, denote the State's managed care contract rating period(s) the State is seeking approval for.
- b. If this payment arrangement is designed to be a multi-year effort and the State is **NOT** requesting a multi-year approval, describe how this application's payment arrangement fits into the larger multi-year effort and identify which year of the effort is addressed in this application.

15. Use the checkboxes below to make the following assurances:

- a. ☐ In accordance with 42 C.F.R. § 438.6(c)(2)(iii)(A), the state directed payment arrangement makes participation in the value-based purchasing initiative, delivery system reform, or performance improvement initiative available, using the same terms of performance, to the class or classes of providers (identified below) providing services under the contract related to the reform or improvement initiative.
- b. ☐ In accordance with 42 C.F.R. § 438.6(c)(2)(iii)(B), the payment arrangement makes use of a common set of performance measures across all of the payers and providers.
- c. ☐ In accordance with 42 C.F.R. § 438.6(c)(2)(iii)(C), the payment arrangement does not set the amount or frequency of the expenditures.
- d. ☐ In accordance with 42 C.F.R. § 438.6(c)(2)(iii)(D), the payment arrangement does not allow the State to recoup any unspent funds allocated for these arrangements from the MCO, PIHP, or PAHP.

SUBSECTION IIB: STATE DIRECTED FEE SCHEDULES:

This section must be completed for all state directed payments that are fee schedule requirements. This section does not need to be completed for state directed payments that are VBP or DSR.

16. Please check the type of state directed payment for which the State is seeking prior approval. Check all that apply; if none are checked, proceed to Section III.

- a. ☐ Minimum Fee Schedule for providers that provide a particular service under the contract *using rates other than State plan approved rates*¹ (42 C.F.R. § 438.6(c)(1)(iii)(B))
- b. ☐ Maximum Fee Schedule (42 C.F.R. § 438.6(c)(1)(iii)(D))
- c. ☒ Uniform Dollar or Percentage Increase (42 C.F.R. § 438.6(c)(1)(iii)(C))

¹ Please note, per the 2020 Medicaid and CHIP final rule at 42 C.F.R. § 438.6(c)(1)(iii)(A), States no longer need to submit a preprint for prior approval to adopt minimum fee schedules that use State plan approved rates as defined in 42 C.F.R. § 438.6(a).

17. If the State is seeking prior approval of a fee schedule (options a or b in Question 16):

- a.** Check the basis for the fee schedule selected above.
 - i.** ☐ The State is proposing to use a fee schedule based on the **State-plan approved rates** as defined in 42 C.F.R. § 438.6(a).²
 - ii.** ☐ The State is proposing to use a fee schedule based on the **Medicare or Medicare-equivalent rate**.
 - iii.** ☐ The State is proposing to use a fee schedule based on an **alternative fee schedule established by the State**.
 - 1.** If the State is proposing an alternative fee schedule, please describe the alternative fee schedule (e.g., 80% of Medicaid State-plan approved rate)
- b.** Explain how the state determined this fee schedule requirement to be reasonable and appropriate.

18. If using a maximum fee schedule (option b in Question 16), please answer the following additional questions:

- a.** ☐ Use the checkbox to provide the following assurance: In accordance with 42 C.F.R. § 438.6(c)(1)(iii)(C), the State has determined that the MCO, PIHP, or PAHP has retained the ability to reasonably manage risk and has discretion in accomplishing the goals of the contract.
- b.** Describe the process for plans and providers to request an exemption if they are under contract obligations that result in the need to pay more than the maximum fee schedule.
- c.** Indicate the number of exemptions to the requirement:
 - i.** Expected in this contract rating period (estimate)
 - ii.** Granted in past years of this payment arrangement
- d.** Describe how such exemptions will be considered in rate development.

² Please note, per the 2020 Medicaid and CHIP final rule at 42 C.F.R. § 438.6(c)(1)(iii)(A), States no longer need to submit a preprint for prior approval to adopt minimum fee schedules that use State plan approved rates as defined in 42 C.F.R. § 438.6(a).

19. If the State is seeking prior approval for a uniform dollar or percentage increase (option c in Question 16), please address the following questions:

- a. Will the state require plans to pay a ☐ uniform dollar amount or a ☐ uniform percentage increase? (*Please select only one.*)
- b. What is the magnitude of the increase (e.g., \$4 per claim or 3% increase per claim?)
Percentages for each class are identified in response to Question 19(d).
- c. Describe how will the uniform increase be paid out by plans (e.g., upon processing the initial claim, a retroactive adjustment done one month after the end of quarter for those claims incurred during that quarter).

See Attachment

- d. Describe how the increase was developed, including why the increase is reasonable and appropriate for network providers that provide a particular service under the contract

See Attachment

SECTION III: PROVIDER CLASS AND ASSESSMENT OF REASONABLENESS

20. In accordance with 42 C.F.R. § 438.6(c)(2)(ii)(B), identify the class or classes of providers that will participate in this payment arrangement by answering the following questions:

- a. Please indicate which general class of providers would be affected by the state directed payment (check all that apply):

- ☒ inpatient hospital service
- ☒ outpatient hospital service
- ☐ professional services at an academic medical center
- ☐ primary care services
- ☐ specialty physician services
- ☐ nursing facility services
- ☐ HCBS/personal care services
- ☒ behavioral health inpatient services
- ☒ behavioral health outpatient services
- ☐ dental services
- ☐ Other:

- b. Please define the provider class(es) (if further narrowed from the general classes indicated above).

Class 1: All acute care hospitals and critical access hospitals not included in Class 2
Class 2: Hospitals owned or controlled by the University of North Carolina Health Care System (UNCHS) and Vidant Medical Center (d/b/a ECU Health Medical Center).

- c. Provide a justification for the provider class defined in Question 20b (e.g., the provider class is defined in the State Plan.) If the provider class is defined in the State Plan, please provide a link to or attach the applicable State Plan pages to the preprint submission. Provider classes cannot be defined to only include providers that provide intergovernmental transfers.

The classes of hospitals that are eligible for the directed payment are based on the classes identified in 4.19-A Section (d)(5) of the State Plan. All acute care hospitals, including critical access hospitals, identified in this section of the State Plan are eligible for the directed payment. A copy of 4.19-A Section (d)(5) of the State Plan is attached.

21. In accordance with 42 C.F.R. § 438.6(c)(2)(ii)(B), describe how the payment arrangement directs expenditures equally, using the same terms of performance, for the class or classes of providers (identified above) providing the service under the contract.

The directed payment is a uniform percentage increase for every in-network hospital within each hospital class, which applies to all inpatient and outpatient hospital services that each in-network hospital provides under the contract. The increase is the same regardless of which PHP the patient is enrolled in.

22. For the services where payment is affected by the state directed payment, how will the state directed payment interact with the negotiated rate(s) between the plan and the provider? Will the state directed payment:

- a. ☐ Replace the negotiated rate(s) between the plan(s) and provider(s).
b. ☐ Limit but not replace the negotiated rate(s) between the plans(s) and provider(s).
c. ☒ Require a payment be made in addition to the negotiated rate(s) between the plan(s) and provider(s).

23. For payment arrangements that are intended to require plans to make a payment in addition to the negotiated rates (as noted in option c in Question 22), please provide an analysis in Table 2 showing the impact of the state directed payment on payment levels for each provider class. This provider payment analysis should be completed distinctly for each service type (e.g., inpatient hospital services, outpatient hospital services, etc.).

This should include an estimate of the base reimbursement rate the managed care plans pay to these providers as a percent of Medicare, or some other standardized measure, and the effect the increase from the state directed payment will have on total payment. *Ex: The average base payment level from plans to providers is 80% of Medicare and this SDP is expected to increase the total payment level from 80% to 100% of Medicare.*

TABLE 2: Provider Payment Analysis

Provider Class(es)	Average Base Payment Level from Plans to Providers (absent the SDP)	Effect on Total Payment Level of State Directed Payment (SDP)	Effect on Total Payment Level of Other SDPs	Effect on Total Payment Level of Pass-Through Payments (PTPs)	Total Payment Level (after accounting for all SDPs and PTPs)
<i>Ex: Rural Inpatient Hospital Services</i>	80%	20%	N/A	N/A	100%
a. Class 1 Inpatient and Outpatient Services	100.00%	104.30%	0.00%		204.30%
b. Class 2 Inpatient and Outpatient Services	100.00%	74.40%	45.10%		219.50%
c.	0.00%	0.00%	0.00%		0.00%
d.	0.00%	0.00%	0.00%		0.00%
e.	0.00%	0.00%	0.00%		0.00%
f.	0.00%	0.00%	0.00%		0.00%
g.	0.00%	0.00%	0.00%		0.00%

24. Please indicate if the data provided in Table 2 above is in terms of a percentage of:

- a. ☒ Medicare payment/cost
- b. ☐ State-plan approved rates as defined in 42 C.F.R. § 438.6(a) *(Please note, this rate cannot include supplemental payments.)*
- c. ☐ Other; Please define:

25. Does the State also require plans to pay any other state directed payments for providers eligible for the provider class described in Question 20b? ☒ Yes ☐ No

If yes, please provide information requested under the column "Other State Directed Payments" in Table 2.

- 26.** Does the State also require plans to pay pass-through payments as defined in 42 C.F.R. § 438.6(a) to any of the providers eligible for any of the provider class(es) described in Question 20b? ☐ Yes ☒ No

If yes, please provide information requested under the column "Pass-Through Payments" in Table 2.

- 27.** Please describe the data sources and methodology used for the analysis provided in response to Question 23.

Please see response to question 19(d) in the Attachment.

- 28.** Please describe the State's process for determining how the proposed state directed payment was appropriate and reasonable.

DHB determined that the percent payment increase for each class was appropriate and reasonable because it brings the reimbursement to each class of hospitals, for the in-network Medicaid managed care services they provide, closer to non-governmental managed care rates in support of DHB policies and Medicaid managed care access goals.

SECTION IV: INCORPORATION INTO MANAGED CARE CONTRACTS

- 29.** States must adequately describe the contractual obligation for the state directed payment in the state's contract with the managed care plan(s) in accordance with 42 C.F.R. § 438.6(c). Has the state already submitted all contract action(s) to implement this state directed payment? ☐ Yes ☒ No

a. If yes:

- i.** What is/are the state-assigned identifier(s) of the contract actions provided to CMS?
- ii.** Please indicate where (page or section) the state directed payment is captured in the contract action(s).

b. If no, please estimate when the state will be submitting the contract actions for review.

DHB will submit the contract action upon (1) the North Carolina General Assembly's enactment of changes to the hospital assessment supporting a portion of the non-federal share for this directed payment, and (2) CMS approval of the preprint.

SECTION V: INCORPORATION INTO THE ACTUARIAL RATE CERTIFICATION

Note: Provide responses to the questions below for the first rating period if seeking approval for multi-year approval.

30. Has/Have the actuarial rate certification(s) for the rating period for which this state directed payment applies been submitted to CMS? ☐ Yes ☒ No

a. If no, please estimate when the state will be submitting the actuarial rate certification(s) for review.

b. If yes, provide the following information in the table below for each of the actuarial rate certification review(s) that will include this state directed payment.

Table 3: Actuarial Rate Certification(s)

Control Name Provided by CMS (List each actuarial rate certification separately)	Date Submitted to CMS	Does the certification incorporate the SDP?	If so, indicate where the state directed payment is captured in the certification (page or section)
i.			
ii.			
iii.			
iv.			
v.			

Please note, states and actuaries should consult the most recent Medicaid Managed Care Rate Development Guide for how to document state directed payments in actuarial rate certification(s). The actuary's certification must contain all of the information outlined; if all required documentation is not included, review of the certification will likely be delayed.)

c. If not currently captured in the State's actuarial certification submitted to CMS, note that the regulations at 42 C.F.R. § 438.7(b)(6) requires that all state directed payments are documented in the State's actuarial rate certification(s). CMS will not be able to approve the related contract action(s) until the rate certification(s) has/have been amended to account for all state directed payments. Please provide an estimate of when the State plans to submit an amendment to capture this information.

The state plans to submit amended certification concurrent with or following the contract action.

31. Describe how the State will/has incorporated this state directed payment arrangement in the applicable actuarial rate certification(s) (please select one of the options below):
- a. ☐ An adjustment applied in the development of the monthly base capitation rates paid to plans.
 - b. ☒ Separate payment term(s) which are captured in the applicable rate certification(s) but paid separately to the plans from the monthly base capitation rates paid to plans.
 - c. ☐ Other, please describe:
32. States should incorporate state directed payment arrangements into actuarial rate certification(s) as an adjustment applied in the development of the monthly base capitation rates paid to plans as this approach is consistent with the rate development requirements described in 42 C.F.R. § 438.5 and consistent with the nature of risk-based managed care. For state directed payments that are incorporated in another manner, particularly through separate payment terms, provide additional justification as to why this is necessary and what precludes the state from incorporating as an adjustment applied in the development of the monthly base capitation rates paid to managed care plans.
See Attachment.
33. ☒ In accordance with 42 C.F.R. § 438.6(c)(2)(i), the State assures that all expenditures for this payment arrangement under this section are developed in accordance with 42 C.F.R. § 438.4, the standards specified in 42 C.F.R. § 438.5, and generally accepted actuarial principles and practices.

SECTION VI: FUNDING FOR THE NON-FEDERAL SHARE

34. Describe the source of the non-federal share of the payment arrangement. Check all that apply:
- a. ☐ State general revenue
 - b. ☒ Intergovernmental transfers (IGTs) from a State or local government entity
 - c. ☒ Health Care-Related Provider tax(es) / assessment(s)
 - d. ☐ Provider donation(s)
 - e. ☐ Other, specify:
35. For any payment funded by **IGTs (option b in Question 34)**,
- a. Provide the following (respond to each column for all entities transferring funds). If there are more transferring entities than space in the table, please provide an attachment with the information requested in the table.

Table 4: IGT Transferring Entities

Name of Entities transferring funds (enter each on a separate line)	Operational nature of the Transferring Entity (State, County, City, Other)	Total Amounts Transferred by This Entity	Does the Transferring Entity have General Taxing Authority? (Yes or No)	Did the Transferring Entity receive appropriations? If not, put N/A. If yes, identify the level of appropriations	Is the Transferring Entity eligible for payment under this state directed payment? (Yes or No)
i. See Attachment					
ii.					
iii.					
iv.					
v.					
vi.					
vii.					
viii.					
ix.					
x.					

- b.** ☐ Use the checkbox to provide an assurance that no state directed payments made under this payment arrangement funded by IGTs are dependent on any agreement or arrangement for providers or related entities to donate money or services to a governmental entity.
- c.** Provide information or documentation regarding any written agreements that exist between the State and healthcare providers or amongst healthcare providers and/or related entities relating to the non-federal share of the payment arrangement. This should include any written agreements that may exist with healthcare providers to support and finance the non-federal share of the payment arrangement. Submit a copy of any written agreements described above.

36. For any state directed payments funded by provider taxes/assessments (option c in Question 34),

- a.** Provide the following (respond to each column for all entries). If there are more entries than space in the table, please provide an attachment with the information requested in the table.

Table 5: Health Care-Related Provider Tax/Assessment(s)

Name of the Health Care-Related Provider Tax / Assessment (enter each on a separate line)	Identify the permissible class for this tax / assessment	Is the tax / assessment broad-based?	Is the tax / assessment uniform?	Is the tax / assessment under the 6% indirect hold harmless limit?	If not under the 6% indirect hold harmless limit, does it pass the “75/75” test?	Does it contain a hold harmless arrangement that guarantees to return all or any portion of the tax payment to the tax payer?
i. Assessment under consideration by NC General Assembly (see attachment for additional details)	Inpatient and Outpatient Hospital Services	No	No	Yes		No
ii.						
iii.						
iv.						
v.						

- b. If the state has any waiver(s) of the broad-based and/or uniform requirements for any of the health care-related provider taxes/assessments, list the waiver(s) and its current status:

Table 6: Health Care-Related Provider Tax/Assessment Waivers

Name of the Health Care-Related Provider Tax/Assessment Waiver (enter each on a separate line)	Submission Date	Current Status (Under Review, Approved)	Approval Date
i.			
ii.			
iii.			
iv.			
v.			

37. For any state directed payments funded by **provider donations (option d in Question 34)**, please answer the following questions:

- a. Is the donation bona-fide? ☐ Yes ☐ No
- b. Does it contain a hold harmless arrangement to return all or any part of the donation to the donating entity, a related entity, or other provider furnishing the same health care items or services as the donating entity within the class?
☐ Yes ☐ No

38. ☒ **For all state directed payment arrangements**, use the checkbox to provide an assurance that in accordance with 42 C.F.R. § 438.6(c)(2)(ii)(E), the payment arrangement does not condition network provider participation on the network provider entering into or adhering to intergovernmental transfer agreements.

SECTION VII: QUALITY CRITERIA AND FRAMEWORK FOR ALL PAYMENT ARRANGEMENTS

39. ☒ Use the checkbox below to make the following assurance, “In accordance with 42 C.F.R. § 438.6(c)(2)(ii)(C), the State expects this payment arrangement to advance at least one of the goals and objectives in the quality strategy required per 42 C.F.R. § 438.340.”
40. Consistent with 42 C.F.R. § 438.340(d), States must post the final quality strategy online beginning July 1, 2018. Please provide:
- a. A hyperlink to State’s most recent quality strategy: <https://medicaid.ncdhhs.gov/media/9968/download?attachment>.
 - b. The effective date of quality strategy. **June 16, 2021**
41. If the State is currently updating the quality strategy, please submit a draft version, and provide:
- a. A target date for submission of the revised quality strategy (month and year):
 - b. Note any potential changes that might be made to the goals and objectives.

Note: The State should submit the final version to CMS as soon as it is finalized. To be in compliance with 42 C.F.R. § 438.340(c)(2) the quality strategy must be updated no less than once every 3-years.

- 42.** To obtain written approval of this payment arrangement, a State must demonstrate that each state directed payment arrangement expects to advance at least one of the goals and objectives in the quality strategy. In the Table 7 below, identify the goal(s) and objective(s), as they appear in the Quality Strategy (include page numbers), this payment arrangement is expected to advance. If additional rows are required, please attach.

Table 7: Payment Arrangement Quality Strategy Goals and Objectives

Goal(s)	Objective(s)	Quality strategy page
<i>Example: Improve care coordination for enrollees with behavioral health conditions</i>	<i>Example: Increase the number of managed care patients receiving follow-up behavior health counseling by 15%</i>	5
a. Goal 1: Ensure appropriate access to care	Objective 1.1: Ensure timely access to care Objective 1.2: Maintain Medicaid provider engagement	9
b.		
c.		
d.		

- 43.** Describe how this payment arrangement is expected to advance the goal(s) and objective(s) identified in Table 7. If this is part of a multi-year effort, describe this both in terms of this year's payment arrangement and in terms of that of the multi-year payment arrangement.

This payment arrangement is expected to advance these goals and objectives, this year and in future years, primarily by maintaining and enhancing access to care for Medicaid managed care enrollees, which will improve health outcomes and quality of care for Medicaid managed care enrollees. We anticipate the payment arrangement will support the financial sustainability of hospitals that serve large proportions of Medicaid-covered individuals. This will in turn ensure a sufficient number of hospitals engage in each managed care plan's network to provide timely access to services. Over the longer term, it is also anticipated that these payments will support provider efforts to improve performance, resulting in higher quality services provided to Medicaid managed care enrollees.

44. Please complete the following questions regarding having an evaluation plan to measure the degree to which the payment arrangement advances at least one of the goals and objectives of the State's quality strategy. To the extent practicable, CMS encourages States to utilize existing, validated, and outcomes-based performance measures to evaluate the payment arrangement, and recommends States use the CMS Adult and Child Core Set Measures, when applicable.

- a.** ☐ In accordance with 42 C.F.R. § 438.6(c)(2)(ii)(D), use the checkbox to assure the State has an evaluation plan which measures the degree to which the payment arrangement advances at least one of the goals and objectives in the quality strategy required per 42 C.F.R. § 438.340, and that the evaluation conducted will be *specific* to this payment arrangement. *Note:* States have flexibility in how the evaluation is conducted and may leverage existing resources, such as their 1115 demonstration evaluation if this payment arrangement is tied to an 1115 demonstration or their External Quality Review validation activities, as long as those evaluation or validation activities are *specific* to this payment arrangement and its impacts on health care quality and outcomes.

- b.** Describe how and when the State will review progress on the advancement of the State's goal(s) and objective(s) in the quality strategy identified in Question 42. For each measure the State intends to use in the evaluation of this payment arrangement, provide in Table 8 below: 1) the baseline year, 2) the baseline statistics, and 3) the performance targets the State will use to track the impact of this payment arrangement on the State's goals and objectives. Please attach the State's evaluation plan for this payment arrangement.

TABLE 8: Evaluation Measures, Baseline and Performance Targets

Measure Name and NQF # (if applicable)	Baseline Year	Baseline Statistic	Performance Target	Notes ¹
<i>Example: Flu Vaccinations for Adults Ages 19 to 64 (FVA-AD); NQF # 0039</i>	<i>CY 2019</i>	<i>34%</i>	<i>Increase the percentage of adults 18–64 years of age who report receiving an influenza vaccination by 1 percentage point per year</i>	<i>Example notes</i>
i. Getting Care Quickly Measure Steward: AHRQ CAHPS Survey Health Plan Survey 5.0, Adult Version, and CAHPS Health Plan Survey 5.0, Child Version NQF #: 0006	CY 2020	Adult 80.8% Child 93.9% CY2019	Increase or maintain percentage between 2023 and 2024	
ii. Getting Needed Care Measure Steward: AHRQ CAHPS Survey Health Plan Survey 5.0, Adult Version, and CAHPS Health Plan Survey 5.0, Child Version NQF#: 0006	CY 2020	Adult 82.0% Child 89.0% CY2019	Increase or maintain percentage between 2023 and 2024	
iii.				
iv.				

1. If the State will deviate from the measure specification, please describe here. If a State-specific measure will be used, please define the numerator and denominator here. Additionally, describe any planned data or measure stratifications (for example, age, race, or ethnicity) that will be used to evaluate the payment arrangement.

- c. If this is any year other than year 1 of a multi-year effort, describe (or attach) prior year(s) evaluation findings and the payment arrangement's impact on the goal(s) and objective(s) in the State's quality strategy. Evaluation findings must include 1) historical data; 2) prior year(s) results data; 3) a description of the evaluation methodology; and 4) baseline and performance target information from the prior year(s) preprint(s) where applicable. If full evaluation findings from prior year(s) are not available, provide partial year(s) findings and an anticipated date for when CMS may expect to receive the full evaluation findings.

Attachment to 42 CFR 438.6(c) Preprint

Question 4 (additional note)

Estimated payment amounts included in response to Question 4 assume one month of Medicaid expansion enrollment in SFY 2023 (June 1 – June 30, 2023).

Question 19(c)

The hospital directed payment program will be paid by PHPs using the method below:

Pay hospitals an annual interim payment using projected SFY 2023 experience. Each hospital will receive one annual interim lump-sum payment equal to the Payment Increase Percentages (described in response to Question 19(d)) for the applicable hospital class multiplied by the hospital's 'Projected 2023 Managed Care Payments'. The projected 2023 Managed Care Payments will be based on either (1) SFY 2022 managed care encounter data, if such data are available at the time interim directed payments are calculated, or (2) estimated Medicaid managed care payments as described in response to Question 19(d), less directed payments made to class 2 (UNC and Vidant) under an existing arrangement already approved by CMS.

Reconcile interim lump-sum payments based on actual utilization. The interim payments will be reconciled using actual contract year utilization after the end of the contract year. DHB will multiply Payment Increase Percentages by actual 2023 managed care payments (inclusive of at least six months of claims runout) to arrive at final directed payment amounts. Any differences in final vs. interim directed payments will be settled by the PHPs and each hospital through recoupment of payments (if the final payment amount based on actual utilization is less than the annual interim payment, which is based on projected utilization) or an additional payment (if the final payment based on actual utilization is more than the annual interim payment based on projected utilization). If interim directed payments to PHPs are more or less than final directed payment amounts, DHB would follow a similar reconciliation process with the PHPs, as necessary.

Beginning in SFY 2024, interim directed payments would be made on a quarterly basis. Additional details on the quarterly interim payment process will be included in the SFY 2024 preprint.

Question 19(d)

DHB calculated Payment Increase Percentages for each class based on the projected additional payments needed for each hospital class to receive reimbursement equivalent to the average commercial rate. DHB used the following data points in this calculation:

- **Non-governmental (i.e., commercial) managed care payments and costs** – calculated using hospital cost reports submitted for FYE19 from the Healthcare Cost Report Information System (HCRIS) public use files by subtracting the Medicare, Medicaid, CHIP, charity care, and indigent data from the total payments and costs.
- **Estimated Medicaid managed care payments and costs** – Due to the recent transition to Medicaid managed care on July 1, 2021, a full year of validated Medicaid managed care encounter data is not yet available. As such, DHB estimated Medicaid Managed Care Payments and Costs using audited 2018 Medicaid Disproportionate Share Hospital data. Because this data source is pre-Medicaid managed care transition, DHB applied (1) an estimated Medicaid managed care take-up rate, (2) Medicare pay-to-cost ratios from FYE19 HCRIS hospital cost reports, and (3) inflationary factors to estimate post-Medicaid managed care transition utilization. For class 2 (UNC/Vidant), estimated Medicaid managed care

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payments also includes projected directed payments for an existing arrangement already approved by CMS.

DHB identified the payment equivalent for commercial managed care payers for each class and calculated the total payments needed for them to receive 100% of that amount. DHB then determined a uniform Payment Increase Percentage for each hospital class by dividing each class's total directed payment amount by the estimated Medicaid Managed Care Payments (excluding other state directed payments) for the hospital class, as follows:

Hospital Directed Payment Class	<i>Estimated Medicaid Managed Care Payments</i>	Difference Between Projected Medicaid Managed Care Payments and ACR	Payment Increase Percentage
Class 1 – Acute/CAH	\$2,227,865,175	\$2,323,614,239	104.3%
Class 2 – UNC/Vidant	\$390,416,135	\$290,415,634	74.4%*
Total	\$2,618,281,309	\$2,614,029,873	

*Because percentage increase will be applied to Medicaid managed care base payments only, denominator for calculating percentage increase subtracts current directed payments made to UNC/Vidant.

After the contract year, DHB will apply the Payment Increase Percentages to actual 2023 managed care payments for each hospital to arrive at final directed payment amounts. Final directed payment amounts will then be reconciled with the interim directed payments to ensure that the directed payments paid to each hospital and class from the PHPs are based on actual 2023 managed care utilization.

Question 32

The separate payment term allows DHB to ensure that per-service directed payments are tied to actual utilization during the contract year. In addition, a separate payment term streamlines administration of the program.

DHB's actuary will account for the directed payment consistent with CMS's Medicaid Managed Care Rate Development Guide.¹ Specifically, the actuary will include an estimated payment amount in a rate amendment that matches the amount included in the preprint. Once final payments have been made after completion of the contract year (as described in response to Question 19), the actuary will use the actual 2023 managed care payment data (inclusive of the directed payment) to certify final health plan rates.

Question 35a (Table 4)

¹ DHB will submit actuarial documentation to CMS "after the rating period is complete ... that incorporates the total amount of the payment into the rate certification's rate cells ... as if the payment information (e.g., providers receiving the payment, amount of the payment, utilization that occurred, enrollees seen, etc.) had been known when the rates were initially developed." CMS, 2022-2023 Medicaid Managed Care Rate Development Guide, 29 (April 2022) ([[HYPERLINK "https://www.medicaid.gov/medicaid/managed-care/downloads/2022-2023-medicaid-rate-guide-03282022.pdf"](https://www.medicaid.gov/medicaid/managed-care/downloads/2022-2023-medicaid-rate-guide-03282022.pdf)]).

Attachment to 42 CFR 438.6(c) Preprint

Transferring Entity Name	Operational Nature (State, County, City, Other)	Total Amounts Transferred (Estimated)	General Taxing Authority? (Yes or No)	Receive appropriations? If not, put N/A. If yes, identify the level.	Eligible for directed payment? (Yes or No)
Atrium Health Anson	NSGO	\$154,206	No	N/A	Yes
Atrium Health Cabarrus	NSGO	\$4,843,077	No	N/A	Yes
Atrium Health Cleveland	NSGO	\$1,799,012	No	N/A	Yes
Atrium Health Lincoln	NSGO	\$1,111,326	No	N/A	Yes
Atrium Health Pineville	NSGO	\$1,066,815	No	N/A	Yes
Atrium Health Stanly	NSGO	\$826,318	No	N/A	Yes
Atrium Health Union	NSGO	\$1,797,948	No	N/A	Yes
Atrium Health University	NSGO	\$1,649,434	No	N/A	Yes
Betsy Johnson Hospital	NSGO	\$1,026,419	No	N/A	Yes
Caldwell Memorial Hospital	SGO	\$1,021,233	No	N/A	Yes
Cape Fear Valley Hoke Hospital	NSGO	\$307,820	No	N/A	Yes
Cape Fear Valley Medical Center	NSGO	\$9,236,709	No	N/A	Yes
Carolinaeast Medical Center	NSGO	\$1,282,183	No	N/A	Yes
Carolinas Medical Center	NSGO	\$21,453,684	No	N/A	Yes
Caromont Regional Medical Center (Gaston)	NSGO	\$4,408,963	No	N/A	Yes
Carteret General Hospital	NSGO	\$635,623	No	N/A	Yes
Catawba Valley Medical Center	NSGO	\$2,420,932	No	N/A	Yes
Charlotte Institute Of Rehabilitation	NSGO	\$1,129,379	No	N/A	Yes
Chatham Hospital	SGO	\$311,793	No	N/A	Yes
Columbus Regional Healthcare	NSGO	\$720,355	No	N/A	Yes
ECU Health North Hospital	NSGO	\$680,085	No	N/A	Yes
Granville Health System	NSGO	\$313,151	No	N/A	Yes
Iredell Memorial Hospital	NSGO	\$944,654	No	N/A	Yes
Johnston Health	NSGO	\$2,314,714	No	N/A	Yes
Margaret R Pardee Mem Hospital	NSGO	\$822,385	No	N/A	Yes
Nash General Hospital	NSGO	\$3,043,560	No	N/A	Yes
Northern Regional Hospital	NSGO	\$434,489	No	N/A	Yes
Onslow Memorial Hospital	NSGO	\$2,092,421	No	N/A	Yes
Rex Hospital	SGO	\$2,654,093	No	N/A	Yes
Sampson Regional Medical Center	NSGO	\$426,161	No	N/A	Yes
UNC Hospitals	SGO	\$23,133,091	No	N/A	Yes
UNC Lenoir Memorial Hospital	NSGO	\$1,744,284	No	N/A	Yes
UNC Rockingham	SGO	\$425,148	No	N/A	Yes
Vidant Duplin Hospital	NSGO	\$519,437	No	N/A	Yes
Vidant Edgecombe Hospital	NSGO	\$1,055,115	No	N/A	Yes

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Attachment to 42 CFR 438.6(c) Preprint

Transferring Entity Name	Operational Nature (State, County, City, Other)	Total Amounts Transferred (Estimated)	General Taxing Authority? (Yes or No)	Receive appropriations? If not, put N/A. If yes, identify the level.	Eligible for directed payment? (Yes or No)
Vidant Medical Center - Pitt (d/b/a ECU Health Medical Center).	NSGO	\$13,483,038	No	N/A	Yes
Vidant Roanoke-Chowan Hospital	NSGO	\$604,156	No	N/A	Yes
Watauga Medical Center	NSGO	\$565,549	No	N/A	Yes

Question 36

North Carolina's General Assembly is considering changes to the State's hospital assessment structure (See [[HYPERLINK "https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_108A.html"](https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_108A.html)]) to support a portion of the non-federal share for this directed payment. DHB does not have the authority to collect an assessment related to this directed payment, and will not implement the directed payment, until changes to the assessment are enacted by the General Assembly.

Message

From: Blalock, Nora [Nora.Blalock@mail.house.gov]
Sent: 4/25/2023 6:22:21 PM
To: Chadwick, Alpheus (CMS/OL) [alpheus.chadwick@cms.hhs.gov]; Martino, Maria (CMS/OL) [maria.martino@cms.hhs.gov]
CC: Flikier, Becca [Becca.Flikier@mail.house.gov]; Koetzle, Patrick [Patrick.Koetzle@mail.house.gov]
Subject: RE: RE: FL CMS Call on Informational Bulletin
Attachments: CMS Bulletin 1-Pgr[2].pdf; Bulletin - MFAR Resurfacing Impact.pdf

AI:

Thanks for getting back to me so quickly!

Top-line, hospitals are saying that:

- The Informational Bulletin echoes themes from MFAR
- These are private agreements between providers
- Any changes to financing should be done through rulemaking and not in an Informational Bulletin

Sharing some of the materials that have been sent our way so you can get a sense of what we are hearing. If there is any way y'all could hop on a quick call this week, that would be really helpful!

Thank you,
Nora

From: Chadwick, Alpheus (CMS/OL) <Alpheus.Chadwick@cms.hhs.gov>
Sent: Tuesday, April 25, 2023 1:57 PM
To: Blalock, Nora <Nora.Blalock@mail.house.gov>; Martino, Maria (CMS/OL) <Maria.Martino@cms.hhs.gov>
Cc: Flikier, Becca <Becca.Flikier@mail.house.gov>; Koetzle, Patrick <Patrick.Koetzle@mail.house.gov>
Subject: RE: FL CMS Call on Informational Bulletin

Hello Nora – can you give me a sense of what you've been hearing from your constituents, which will help us prepare for a call? Thx.

-AI

From: Blalock, Nora <Nora.Blalock@mail.house.gov>
Sent: Tuesday, April 25, 2023 1:11 PM
To: Chadwick, Alpheus (CMS/OL) <Alpheus.Chadwick@cms.hhs.gov>; Martino, Maria (CMS/OL) <Maria.Martino@cms.hhs.gov>
Cc: Flikier, Becca <Becca.Flikier@mail.house.gov>; Koetzle, Patrick <Patrick.Koetzle@mail.house.gov>
Subject: FL CMS Call on Informational Bulletin

AI & Maria:

I hope y'all are both doing well and enjoying your week! Becca (Frankel), Patrick (Wasserman Schultz) and I have been hearing a lot from Florida hospitals about Florida's Medicaid program and CMS' Informational Bulletin. We just did a check-in with Rick Van Buren, and he recommended we ask for a quick call with y'all on this issue.

Would y'all have any time in the next few days to chat with us?

Thank you so much!

Nora

Nora Blalock

Legislative Director

Office of Congresswoman Kathy Castor (FL-14)

202-225-3376 / nora.blalock@mail.house.gov

Click [here](#) to sign up for Congresswoman Castor's Email Updates



CMS BULLETIN THREATENS MEDICAID HOSPITALS AND PATIENTS

On February 17, the Centers for Medicare & Medicaid Services (CMS) issued an Informational Bulletin (Bulletin) providing new guidance on health care related taxes and hold harmless arrangements, specifically arrangements involving the redistribution of Medicaid payments. The Bulletin runs counter to the agency's historic treatment of such financing arrangements. And, if enforced, the agency's position poses a significant threat to the Medicaid safety net, jeopardizing at least \$50 billion in funding that supports access to care for countless Medicaid beneficiaries.

Medicaid financing is a shared responsibility of the states and the federal government. It involves federal match for state dollars, with up to sixty percent of the non-federal share coming from sources other than the state. Whether state dollars qualify for federal match depends on whether the state complies with applicable law. If the state does not comply, the federal government may refuse to provide or disallow federal funds. This federal revenue is critical to reimbursing Medicaid providers for the cost of providing care to Medicaid beneficiaries. Revenue supports various supplemental payment programs, including directed payment programs (DPPs) or, as CMS refers to them, state directed payments.

Despite years of longstanding Medicaid policy, CMS is now questioning one aspect of the non-federal share states use to fund their supplemental payment programs. Specifically, CMS takes issue with health care-related tax programs where taxpaying providers, without any government involvement, voluntarily contribute funds to support other taxpaying providers (i.e., a redistribution or pooling arrangement), who share in the mission of ensuring equitable outcomes for high volume Medicaid hospitals serving beneficiaries in urban and rural parts of states. CMS asserts that such redistribution arrangements are impermissible under federal law. But the federal law limits CMS authority to situations: (1) where a governmental entity is involved and (2) where some dollar return is guaranteed.

Contrary to the law, CMS says these voluntary, wholly private arrangements are problematic regardless of whether government is involved and even if there is only an implicit agreement between parties. CMS also notes that states must (1) make clear to providers that any such redistribution arrangements are not permissible, (2) learn the details of how health care-related taxes are collected, and (3) take steps to curtail redistribution practices if they exist.

Although CMS characterizes its position as "consistent" with previous interpretations, the agency has not consistently espoused this view, nor has the agency successfully enforced it. Most recently, in 2022, CMS withheld approval of Texas's Medicaid Hospital DPP because of concerns with possible redistribution arrangements. However, CMS eventually approved the state's waiver following a court's determination that CMS had exceeded its authority under current law.

The Bulletin's interpretation threatens the financial stability of Medicaid programs across the country. Notably, at least 14 states objected to CMS' last attempt to expand the hold harmless definition to include private agreements. States that have long relied on permissible provider taxes to support the non-federal share of their Medicaid programs now face new budget uncertainties. This unnecessary and unsupported financial uncertainty is unacceptable for Medicaid providers and the vulnerable communities they serve.

**CMS MUST RESCIND ITS BULLETIN AND ADHERE TO THE STATUTORY LIMITS OF ITS
AUTHORITY. THE HEALTH OF OUR MOST VULNERABLE COMMUNITIES DEPENDS ON IT.**



In 2019, the Centers for Medicare & Medicaid Services (CMS) proposed the Medicaid Fiscal Accountability Rule (MFAR), which would have made sweeping changes to long-standing policies and required states to make substantial changes to existing Medicaid financing practices resulting in undue burdens to our nation's healthcare safety net. Even though CMS withdrew MFAR from the Federal Register in January 2021 following overwhelming bipartisan opposition, CMS continues to pursue MFAR policies, most recent through an Informational Bulletin released on February 17, 2023. . The Informational Bulletin specifically revives the agency's attempts to assert its jurisdiction over wholly private, voluntary arrangements between hospitals, lacking any state involvement. Through its ongoing pursuit of the MFAR policy changes, **CMS is threatening at least \$49 Billion in Medicaid financing and access to care for millions of Medicaid beneficiaries who are already facing uncertainty due to the end of the public health emergency.**

CMS'S RESURRECTION OF MFAR POLICY CHANGES THREATENS MEDICAID FUNDING SOURCES AND ACCESS TO HEALTHCARE SERVICES

In a January 29, 2020 letter to CMS Administrator, Manatt Health and the American Hospital Association (AHA), analyzed the potential financial impact of the financing policy changes proposed in MFAR. The AHA predicted MFAR's proposed changes could:

- Cause "total [Medicaid] **funding reductions between \$37 billion and \$49 billion annually** or 5.8% to 7.6% of total program spending."
- Devastate hospitals, causing them to see **reductions in Medicaid payments of \$23 billion to \$31 billion annually**, representing 12.8% to 16.9% of total hospital program payments."
- Put more rural hospitals at risk of closure. At the time, the AHA estimated that 41% of rural hospitals operated at a negative profit margin
- They ultimately concluded that:
 - the MFAR policy changes "could **unquestionably mean cuts in program enrollment and covered services,**" and
 - the **"impact for some states could be catastrophic."**

**\$37-49
BILLION**
IN MEDICAID
FUNDING
REDUCTIONS

**29
MILLION**
BLACK OR HISPANIC
INDIVIDUALS WHO
WOULD
BE
DISPROPORTIONATELY
IMPACTED

Notably, CMS has yet to quantify the financial and/or coverage impact of the MFAR policies. However there is reason to believe the impact would be even more significant than the AHA's 2020 projections, particularly given the increases in Medicaid enrollment during the public health emergency.

From November 2019 – December 2020, 64 – 72 million individuals were enrolled in Medicaid. When CMS withdrew MFAR, Medicaid enrollment had already to over 73 million individuals, including approximately 29 million individuals identifying as Black or Hispanic who would have been disproportionately impacted by CMS' proposed policies.

**CMS must withdraw the Bulletin. Now is the time to protect Medicaid,
not create new uncertainties for states and Medicaid beneficiaries.**

Message

From: Boston, Beverly (CMS/CMCS) (b)(6)
(b)(6)
Sent: 1/9/2023 8:33:52 PM
To: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6) Fan, Kristin (CMS/CMCS)
(b)(6)
(b)(6) Arnold, Charlie
(CMS/CMCS) (b)(6)
(b)(6) Clark, Jennifer
(CMS/CMCS) (b)(6)
(b)(6) Goldstein, Stuart
(CMS/CMCS) (b)(6)
(b)(6) Cuno, Richard
(CMS/CMCS) (b)(6)
CC: Maccarroll, Amber (CMS/CMCS) (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS) (b)(6)
(b)(6) adams, lia (CMS/CMCS)
(b)(6)
Subject: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements
Attachments: Healthcare Related Taxes CIB OGC OL RECONCILED Jan 9 10AM .docx; Internal QAs-Healthcare Related Taxes CIB Reconciled Jan 9 10am.docx

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

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

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

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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

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CMCS Informational Bulletin

DATE: xx xx, xxxx

FROM: Daniel Tsai, Deputy Administrator and Director

SUBJECT: Health Care-Related Taxes and Hold Harmless Arrangements Involving the
Redistribution of Medicaid Payments

Background

Recently, the Centers for Medicare & Medicaid Services (CMS) has been approached by several states with questions 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). Many of these questions have focused on whether health care-related tax arrangements involving the redistribution of Medicaid payments among providers subject to the tax would comply with the statutory and regulatory prohibition on “hold harmless” arrangements—that is, arrangements in which 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”—as specified in section 1903(w)(1)(A)(iii) and (w)(4) of the Social Security Act (the Act) and implementing regulations. In response to these questions, this informational bulletin reiterates our longstanding position on the existing federal requirements that pertain to health-care related taxes and re-emphasizes our goal of assisting states in ensuring appropriate sources of non-federal share financing.

CMS recognizes that health care-related taxes are a critical source of funding for many states’ Medicaid programs, including for payments to safety net providers. CMS supports states’ adoption of health care-related taxes when they are consistent with federal requirements. CMS approves many state payment proposals annually that are supported by health care-related taxes that appear to meet federal requirements. CMS recognizes the challenges faced by states and health care providers in identifying sources of non-federal share financing and implementing Medicaid payment methodologies that assure payments are consistent with efficiency, economy, quality of care, and access, as required section 1902(a)(30)(A) of the Act.

Medicaid statute and regulations afford states flexibility to tailor health care-related taxes within certain parameters to meet their provider community needs and align with broader state tax policies and priorities for their Medicaid programs. CMS remains committed to providing states with technical assistance aiming to ensure that health care-related taxes used to finance the non-federal share of Medicaid expenditures meet the states’ policy goals and comply with federal requirements. For example, CMS is authorized to waive the requirements that health care-related taxes be broad-based and/or uniform, when applicable conditions are met. CMS regularly works

with states to approve such waivers in furtherance of state goals while complying with federal requirements.

Although the applicable statutory and regulatory provisions afford states considerable flexibility in establishing health care-related taxes, such taxes must be imposed in a manner consistent with applicable federal statutes and regulations, including that they may not involve hold harmless arrangements, to avoid a reduction in the state’s Medicaid expenditures eligible for federal financial participation. Occasionally, CMS encounters health care-related tax programs that appear to contain hold harmless arrangements, which are inconsistent with section 1903(w)(1)(A)(iii) and (w)(4) of the Act and 42 C.F.R. § 433.68(b)(3) and (f). Such arrangements are inconsistent with statutory and regulatory requirements and undermine the fiscal integrity of the Medicaid program. Recently, CMS has become aware of some health care-related tax arrangements that appear to contain a hold harmless arrangement that involves the taxpaying providers redistributing Medicaid payments after receipt to ensure that all taxpaying providers receive all or a portion of their tax costs back (typically ensuring that each taxpaying provider receives at least its total tax amount back).

In this informational bulletin, CMS is clarifying the federal requirements concerning hold harmless arrangements with respect to health care-related taxes. Further, we are encouraging states and providers to be as transparent as possible regarding any agreements in place or under development to ensure that all health care-related taxes meet federal requirements to avoid a statutorily required reduction in the state’s Medicaid expenditures eligible for federal financial participation. CMS recommends that states that have concerns about the permissibility of a health care-related tax raise these concerns to CMS early in the process of developing the state’s tax program to avoid issues surrounding the permissibility of the non-federal share of Medicaid expenditures.

Health Care-Related Taxes and Hold Harmless Arrangements

During standard oversight activities and the review of state payment proposals, particularly managed care state directed payments (SDPs) and fee-for-service payment state plan amendments (SPAs), CMS is increasingly encountering health care-related taxes that appear to contain hold harmless arrangements involving the redistribution of Medicaid payments. In these arrangements, a state or other unit of government imposes a health-care related tax, then uses the tax revenue to support the non-federal share of Medicaid payments back to the class of providers subject to the tax. The taxpayers appear to have entered into oral or written agreements (meaning explicit or implicit meeting of the minds, regardless of the formality or informality of any such agreement) to redirect or redistribute the Medicaid payments to ensure that all taxpayers receive all or a portion of their tax back, when considering each provider’s retained portion of any original Medicaid payment (either directly from the state or from the state through an MCO) and any redistribution payment received by the provider from another taxpayer or taxpayers. These redistribution payments may be made directly from one taxpaying provider to another, or the funds may be contributed first to an intermediary redistribution pool.

In these hold harmless arrangements, there appear to be agreements among providers (explicit or implicit in nature) such that providers that furnish a relatively high percentage of Medicaid-covered services redistribute a portion of their Medicaid payments to providers with relatively lower (or no) Medicaid service percentage, relative to the health care-related tax those providers

paid. The redistributions occur so that taxpaying providers are held harmless for all or a portion of the health care-related tax. This may include the redistribution of Medicaid payments to providers that serve no Medicaid beneficiaries.

These taxes contain impermissible hold harmless arrangements as defined in section 1903(w)(4)(C)(i) of the Act and 42 CFR 433.68(f)(3) that lead to a reduction in medical assistance expenditures prior to the calculation of federal financial participation as required under section 1903(w)(1)(A) and (w)(1)(A)(iii) of the Act. Following is a detailed example of how a hold harmless arrangement involving Medicaid payment redistribution could work:

- A state imposes a hospital tax based on the volume of inpatient hospital services provided. The tax is broad-based, uniform, and is imposed on 10 hospitals.
- Six of the hospitals serve a high percentage of Medicaid beneficiaries, three serve a low percentage of Medicaid beneficiaries, and one hospital does not participate in Medicaid.
- The state uses the tax revenue as the source of non-federal share of Medicaid payments, which are made back to nine of the hospitals through SDPs. The tenth hospital, which does not participate in Medicaid, does not receive any SDPs directly from state-contracted MCOs.
- All ten hospitals enter into oral or written agreements (meaning an explicit or implicit meeting of the minds, regardless of the formality or informality of any such agreement) to redirect or redistribute the Medicaid payments that the nine Medicaid-participating hospitals receive. Under this arrangement, the six hospitals that furnish a high percentage of Medicaid-covered services receive Medicaid payments from MCOs, then redistribute a portion of their Medicaid payments to the remaining four hospitals with lower Medicaid service percentages (including to the one hospital that does not participate in Medicaid). The redistribution amounts are calculated to guarantee that all hospitals, including those redistributing their own payments and those receiving the redistribution amounts, receive most, all, or more than all of their total tax cost back.
- The agreement among the taxpaying hospitals results in a reasonable expectation that the taxpaying hospitals, whether directly through their Medicaid payments or due to the availability of the redistributed payments received from the six high Medicaid service volume hospitals (which may be first pooled and then redistributed), are held harmless for at least part of their health care-related tax costs.
- The high-percentage Medicaid hospitals are willing to participate because they still financially benefit from the tax program (even net of the redistribution payments they make to the lower Medicaid service volume hospitals), and the redistribution enables broad support for the tax program from all hospitals, ensuring constituent support for the state law authorizing tax program.
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Section 1903(w)(4) of the Act describes what constitutes a hold harmless arrangement. Specifically, section 1903(w)(4)(C)(i) provides that a hold harmless provision exists where “[t]he 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.” (emphasis added). Implementing regulations at 42 CFR 433.68(f)(3) specify that a hold harmless arrangement exists where “[t]he State (or other unit of government) imposing the tax provides for any direct or indirect payment, offset, or waiver such that the provision of the

payment, offset, or waiver directly or indirectly guarantees to hold taxpayers harmless for all or any portion of the tax amount” (emphasis added). In the preamble to the 2008 final rule amending the above-referenced regulation, CMS wrote that “[a] direct guarantee will be found when a State payment is made available to a taxpayer or a party related to the taxpayer with the reasonable expectation that the payment would result in the taxpayer being held harmless for any part of the tax (through direct or indirect payments).”¹

The words “indirect” and “indirectly”, included both in the Medicaid statute and in regulation (and underlined in the excerpts above), make clear that the state itself need not be involved in the actual redistribution of Medicaid payments for the purpose of holding taxpayers harmless for the arrangement to qualify as a hold harmless. We are referring here to indirect payments because indirect guarantees are already defined in the regulation at 42 CFR § 433.68 (f)(3)(i)(a). It is possible for a state to directly provide a payment within the meaning of section 1903(w)(4)(C)(i) of the Act that guarantees to hold taxpayers harmless for any portion of the costs of the tax, if or all the taxpayers receive those payments at issue through an intermediary rather than directly from the state or its contracted MCO. As CMS further explained in preamble to the 2008 final rule, we used the term “reasonable expectation” to relate to a state’s understanding of whether the taxpayer is being held harmless because “state laws were rarely overt in requiring that state payments be used to hold taxpayers harmless.”² In the preamble we also gave an example of state laws providing grants to nursing home residents who experienced increased charges as a result of nursing facility bed taxes; even though no state law typically required residents to use the grant funds to pay the increased nursing home fees, these direct state payments to nursing home residents indirectly held the nursing facilities harmless for their health care-related tax costs because of the reasonable expectation that their residents would use the state payments to repay the nursing facilities for all or a portion of their tax costs.³ It remains true that hold harmless arrangements typically are not overtly established through state law but can be based instead on reasonable expectations that certain actions will take place among participating entities that will result in taxpayers being held harmless for all or a portion of their health care-related tax costs.

Accordingly, an arrangement in which providers receive Medicaid payments from the state (or from a state-contracted MCO), then redistribute those payments such that taxed providers are held harmless for all or any portion of their cost of the tax, would constitute a prohibited hold harmless provision under section 1903(w)(4)(C)(i) of the Act and 42 CFR 433.68(f)(3). Section 1903(w)(1)(A)(iii) of the Act and 42 CFR 433.70(b) require that CMS reduce a state’s medical assistance expenditures by the amount of health care-related tax collections that include hold harmless arrangements, prior to calculating federal financial participation.

Some states have cited challenges with identifying and providing details on redistribution arrangements because they may not be parties to the redistribution agreements. A lack of transparency involving health care-related taxes and Medicaid payments may prevent both CMS and states from having information necessary to ensure sources of non-federal share meet statutory requirements.

¹ 73 Federal Register 9685, 9694-95 (Feb. 22, 2008).

² 73 Federal Register 9694

³ *Id.*

As part of the agency's normal oversight activities, CMS intends to inquire about potential redistribution arrangements and may conduct detailed financial management reviews of health care-related tax programs that appear to include redistribution arrangements or that CMS has information may include redistribution arrangements. Consistent with federal requirements, CMS expects states to make available all requested documentation regarding arrangements involving possible hold harmless arrangements and the redistribution of Medicaid payments, and states should work with their providers to ensure necessary information is available. Where appropriate, states may wish to examine their provider participation agreements and MCO contracts to ensure that providers, as a condition of participation in Medicaid and/or of network participation for a Medicaid managed care plan, agree to provide necessary information to the state. States may consult section 1902(a)(6) of the Act, 45 CFR 75.364, and 42 CFR 433.74 for requirements related to CMS' authority to request records and documentation related to the Medicaid program. In particular, 42 CFR 433.74(a) requires that states, "must also provide any additional information requested by the Secretary related to any . . . taxes imposed on . . . health care providers," and the "States' reports must present a complete, accurate, and full disclosure of all of their donation and tax programs and expenditures." 42 CFR 433.74(d) specifies that a failure to comply with reporting requirements may result in a deferral or disallowance of federal financial participation. CMS is available to provide technical assistance and work with states to ensure the permissibility of all of the sources of the non-federal share of Medicaid expenditures, including any health care-related taxes the state may impose.

Conclusion

CMS recognizes that health care-related taxes can be a permissible source of funding for the non-federal share of Medicaid expenditures. CMS is available to provide technical assistance to states, including by reviewing proposals and providing feedback to develop health care-related taxes that align with state policy goals and meet federal requirements. One key federal requirement is that a health care-related tax cannot have a hold harmless provision that guarantees to return all or a portion of the tax back to the taxpayer. Health care-related tax programs in which taxpayers enter into agreements (explicit or implicit in nature) to redistribute Medicaid payments so that taxpayers have a reasonable expectation that they will receive all or a portion of their tax cost back generally involve a hold harmless arrangement that does not comply with federal statute and regulations.

CMS will continue to approve permissible health care-related taxes that do not contain hold harmless arrangements and meet all other applicable federal requirements. These taxes often finance critical health care programs that pay for care furnished to Medicaid beneficiaries and shore up the health care safety net in our country. As always, CMS intends to work collaboratively with states by providing technical assistance as necessary to ensure the programmatic and fiscal integrity of the Medicaid program.

For questions or to request technical assistance, please contact Rory Howe at [HYPERLINK "mailto:rory.howe@cms.hhs.gov"].

Internal Questions and Answers
CIB on HealthCare Taxes and Hold Harmless Arrangements
EXPECTED RELEASE: February 7, 2023

Q: What is CMS announcing today?

CMCS is issuing an informational bulletin (CIB) to states reiterating certain federal requirements that pertain to health-care related taxes. Recently, CMS has discovered health care-related tax programs that appear to involve agreements among providers to redistribute their Medicaid payments to hold taxpayers harmless for the cost of the tax. The CIB 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.

Q: How do these hold harmless arrangements work?

In the arrangements, a state or other unit of government imposes a health-care related tax on certain health care providers, then uses the tax revenue to fund the non-federal share of state directed Medicaid payments back to the provider taxpayers. The taxpayers appear to have a pre-arranged agreement to redistribute the Medicaid payments to ensure that all taxpayers, when accounting for both the original Medicaid payment (from the state directly or through an MCO) and any redistribution payment from another taxpayer or taxpayers, receive all or any portion of their tax amount back—thus, holding the taxpayers harmless.

Q: Why is this CIB important?

In the past few years, it appears that health care-related tax programs with problematic hold harmless arrangements are starting to proliferate. CMS is aware of a few states with such problematic arrangements in place and a few additional states that appear likely to propose similar tax programs soon. These particular tax programs are often emerging in connection with state directed payment proposals under Medicaid managed care. The CIB aims to ensure that states clearly understand the existing requirements so that, as they develop state directed payment and other payment proposals, they can develop approvable non-federal share financing methodologies and make modifications as necessary to come into compliance with federal requirements.

Ensuring permissible non-federal share sources is critical to protecting Medicaid's sustainability through responsible stewardship of public funds. State use of impermissible non-federal share sources can often inflate federal Medicaid expenditures. Further, these arrangements pay providers based on their ability to fund the non-federal share, and disconnect the Medicaid payment from Medicaid services, quality of care, health outcomes, or other Medicaid program goals. Of critical concern, it appears that the redistribution arrangements in this particular type of tax program are specifically designed to redirect Medicaid payments away from Medicaid providers that serve a high percentage of Medicaid individuals to providers that do not participate in Medicaid or have relatively lower Medicaid utilization.

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Q: Does CMS support states' adoption of health care-related taxes?

Yes, when the tax meets statutory and regulatory requirements. CMS approves hundreds of Medicaid non-federal share financing proposals that are funded by health care-related taxes that appear permissible every year.

Q: How will this impact/benefit Medicaid beneficiaries? How will this impact Medicaid providers?

The CIB reiterates existing statutory and regulatory requirements and does not establish new policy. However, impermissible non-federal share financing arrangements can have a negative impact on beneficiaries. For example, these particular arrangements may result in payments (including managed care state-directed payments), after the payment redistributions that provide higher payment to providers based on their ability to fund the state share instead of based on Medicaid utilization, quality, equity, health outcomes, or other Medicaid program goals. Additionally, the payment redistributions are specifically designed to redirect Medicaid payments away from Medicaid providers to lower volume or non-participating Medicaid providers.

Compared to permissible health care-related taxes, these problematic tax programs are more favorable to providers with relatively low Medicaid utilization. It is possible that some states may adjust existing tax programs or alter future tax programs to ensure compliance. Ultimately, we expect that such changes are beneficial to providers with relatively high Medicaid utilization and unfavorable to providers with relatively low Medicaid utilization that currently benefit from redistribution arrangements.

Q. Is today's action being taken in response to any particular state's arrangements relating to generating the non-federal share of Medicaid funding?

No, this action is not being taken in response to any particular state's Medicaid financing arrangements. However, as described above, CMS is aware of existing arrangements that appear problematic, and is concerned that additional states may be planning to implement similar arrangements. Recently, CMCS worked with one state and its hospitals to avoid implementing a problematic tax program and ensure compliance.

Message

From: Tesfaye, Eden (CMS/); (b)(6)
(b)(6)
Sent: 2/18/2023 3:12:19 PM
To: Richardson (she/her), Erin (CMS/OA); (b)(6)
(b)(6)
Subject: FW: FW: Sharing Finals- Reactive statement-CIB on Health Care Related Taxes and Hold Harmless Arrangements
Attachments: Reactive CIB Health care related taxes and hold harmless Feb 16 1221pm.docx

Is this something I should read/pay attention too? It's the first I'm hearing of this topic. Ha. Just trying to figure out what all I need to read this weekend. Thank you!

From: Wagner, Rachel (CMS/OC) <Rachel.Wagner@cms.hhs.gov>
Sent: Friday, February 17, 2023 12:23 PM
To: Aldana, Karen (CMS/OC) <Karen.Aldana@cms.hhs.gov>; Alexander, Bruce (CMS/OC) <Bruce.Alexander@cms.hhs.gov>; Blum, Jonathan (CMS/OA) <Jonathan.Blum@cms.hhs.gov>; Boulanger, Jennifer (CMS/OL) <Jennifer.Boulanger@cms.hhs.gov>; Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>; Franklin, Julie (CMS/OC) <Julie.Franklin@cms.hhs.gov>; Harris, Will (CMS/OA) <William.Harris@cms.hhs.gov>; Howden, Catherine (CMS/OC) <Catherine.Howden@cms.hhs.gov>; Kaiser, Alyssa (CMS/OL) <Alyssa.Kaiser@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>; Schinderle, Elizabeth (CMS/OC) <elizabeth.schinderle@cms.hhs.gov>; Tesfaye, Eden (CMS/) <eden.tesfaye@cms.hhs.gov>; Toomey, Mary (CMS/OC) <Mimi.Toomey@cms.hhs.gov>; Yao, Kristiana (CMS/OA) <Kristiana.Yao1@cms.hhs.gov>
Cc: Trucil, Daniel (CMS/OC) <Daniel.Trucil@cms.hhs.gov>; Hennessy, Amy (CMS/OC) <Amy.Hennessy@cms.hhs.gov>; Dinges, Enrico (CMS/OC) <Eric.Dinges@cms.hhs.gov>
Subject: Sharing Finals- Reactive statement-CIB on Health Care Related Taxes and Hold Harmless Arrangements

Hi OA colleagues,

Enclosed is the final Reactive Statement for the Health Care Related Taxes and Hold Harmless Arrangements. It's targeting 3 PM today.

Thank you,

Kindly,

Rachel A. Wagner, MS

Deputy Director
Media Relations Group (MRG) | Office of Communications (OC)
Centers for Medicare & Medicaid Services (CMS)
☎ (b)(6) (mobile)
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Confidential and deliberative, pre-decisional communication

REACTIVE MEDIA STATEMENT

To promote greater transparency, program integrity, and opportunity for states to improve the operation of their Medicaid programs, the Centers for Medicare & Medicaid Services (CMS) released a Medicaid informational bulletin that reiterates its longstanding position on existing federal requirements regarding health care-related taxes and addresses a need for understanding Medicaid financing arrangements.

If states use impermissible nonfederal share sources, it can artificially inflate federal Medicaid expenditures. If states use these arrangements to pay providers based on their ability to fund the nonfederal share, it can disconnect Medicaid payment from services, quality of care, health outcomes, and other program goals. Additionally, the redistribution arrangements that are the subject of the informational bulletin involve redirecting Medicaid payments away from Medicaid providers who serve a high share of Medicaid beneficiaries to providers who do not participate in Medicaid or have relatively lower Medicaid utilization.

The informational bulletin reminds states of existing federal statutory and regulatory requirements and assists states in ensuring appropriate sources for the nonfederal share of financing, which is critical to protecting Medicaid's sustainability through responsible stewardship.

Additional Background:

- CMS has been approached by several states with questions 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).
- 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 SDPs. Many of these questions have focused on whether health care-related tax arrangements involving the redistribution of Medicaid payments among providers subject to the tax comply with the statutory and regulatory prohibition on hold harmless arrangements, as specified in section 1903(w)(1)(A)(iii) and (w)(4) of the Social Security Act and implementing regulations.
- CMS will continue to approve permissible health care-related taxes that do not contain hold harmless arrangements and meet all other applicable federal requirements. These taxes often finance critical health care programs that pay for care furnished to Medicaid beneficiaries and shore up the health care safety net in our country. As always, CMS remains committed to working with states on existing or possible arrangements that would involve health care-related taxes that align with state policy goals and meet federal requirements. These collaborations are key to avoiding impermissible tax programs.

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Message

From: Bonelli, Anna (CMS/CMCS); (b)(6)
(b)(6)
Sent: 2/14/2023 12:39:07 AM
To: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6) Maccarroll, Amber
(CMS/CMCS); (b)(6)
(b)(6); Silanskis, Jeremy
(CMS/CMCS); (b)(6)
(b)(6)
CC: Walker, Abigail (CMS/CMCS); (b)(6)
(b)(6)
Subject: Quick take on an "alternative considered"?
Attachments: CMS-2439-P Medicaid_CHIP Managed Care Access Finance and Quality (01-18-23)_EOPComments ab.docx

Hi Rory, Amber, and Jeremy,

As we discussed, I took OMB's comment in our financing provision, and moved the concept to the section on "Alternatives Considered." Not having written this section previously, I'm winging it a bit, particularly because it's pens down today. But if you and take a quick look at this paragraph, we might improve it. I'm cc'ing Abby the reg-writing wonder. Attaching OMB's comment for reference. See last page.

Regarding financing the non-Federal share, we considered incorporating the requirements into 42 CFR part 438 broadly, rather than limiting to SDPs through § 438.6(c)(2)(ii). A broader implementation of § 438.6(c)(2)(ii)(G) and (H) would ensure that CMS may deny all types of payments under 42 CFR part 438—including capitation payments and passthrough payments—that does not comply with non-Federal share financing requirements under 42 CFR part 433, as well as ensure that each entity receiving a payment under a managed care arrangement would attest that it does not participate in any hold harmless arrangements with respect to any health care-related tax, as specified in § 433.68(f)(3). We determined that we had most often encountered potentially noncompliant non-Federal share financing within SDPs. Given that all Federal legal requirements for the financing of the non-Federal share, including but not limited to, 42 CFR part 433, subpart B, apply regardless of delivery system, we solicit public comment on whether the proposed changes in § 438.6(c)(2)(ii)(G) and (H) should be incorporated broadly into 42 CFR part 438.

Anna Bonelli | Senior Policy Advisor | CMS/CMCS | (443) 615-1268 | anna.bonelli@cms.hhs.gov

g. Financing (§ 438.6©(2)(ii)(G) and (H))

From our experience in working with States, it has become clear that SDPs provide an important tool for States in furthering the goals and objectives of their Medicaid programs within a managed care environment. In finalizing the standards and limits for SDPs and pass-through payments in the 2016 and 2017 final rules, we intended to ensure that the funding that was included in Medicaid managed care rate development was done so appropriately and in alignment with Federal statutory requirements applicable to the Medicaid program. This includes Federal requirements for the source(s) of the non-Federal share of SDPs.

Background on Medicaid Non-Federal Share Financing

Medicaid expenditures are jointly funded by the Federal and State governments. Section 1903(a)(1) of the Act provides for Federal payments to States of the Federal share of authorized Medicaid expenditures. The foundation of Federal-State shared responsibility for the Medicaid program is that the State must participate in the financial burdens and risks of the program, which provides the State with an interest in operating and monitoring its Medicaid program in the best interest of beneficiaries (see section 1902(a)(19) of the Act) and in a manner that results in receiving the best value for taxpayers for the funds expended. Sections 1902(a)(2), 1903(a), and 1905(b) of the Act require States to share in the cost of medical assistance and in the cost of administering the program. FFP is not available for expenditures for services and activities that are not medical assistance authorized under a Medicaid authority or allowable State administrative activities. Additionally, FFP is not available to States for expenditures that do not conform to approved State plans, waiver, demonstration projects, or contracts, as applicable.

Section 1902(a)(2) of the Act and its implementing regulation in 42 CFR part 433, subpart B require States to share in the cost of medical assistance expenditures and permit other

units of State or local government to contribute to the financing of the non-Federal share of medical assistance expenditures. These provisions are intended to safeguard the Federal-State partnership, irrespective of the Medicaid delivery system or authority (for example, FFS or managed care delivery system, and State plan, waiver, or demonstration authority), by ensuring that States are meaningfully engaged in identifying, assessing, mitigating, and sharing in the risks and responsibilities inherent in operating a program as complex and economically significant as Medicaid, and that States are accordingly motivated to administer their programs economically and efficiently (see, for example, section 1902(a)(4) of the Act).

There are several types of permissible means for financing the non-Federal share of Medicaid expenditures, including, but not limited to: (1) State general funds, typically derived from tax revenue appropriated directly to the Medicaid agency; (2) revenue derived from health care-related taxes when consistent with Federal statutory requirements at section 1903(w) of the Act and implementing regulations at 42 CFR part 433, subpart B; (3) provider-related donations to the State which must be “bona fide” in accordance with section 1903(w) of the Act and implementing regulations at 42 CFR part 433, subpart B;¹ and (4) intergovernmental transfers (IGTs) from units of State or local government that contribute funding for the non-Federal share of Medicaid expenditures by transferring their own funds to and for the unrestricted use of the Medicaid agency.² Regardless of the source or sources of financing used, the State must meet

1 “Bona fide” provider-related donations are truly voluntary and not part of a hold harmless arrangement that effectively repays the donation to the provider (or to providers furnishing the same class of items and services). As specified in § 433.54, a bona fide provider-related donation is made to the State or a unit of local government and has no direct or indirect relationship to Medicaid payments made to the provider, any related entity providing health care items or services, or other providers furnishing the same class of items or services as the provider or entity. This is satisfied where the donations are not returned to the individual provider, provider class, or a related entity under a hold harmless provision or practice. Circumstances in which a hold harmless practice exists are specified in § 433.54(c).

2 Certified public expenditures (CPEs) also can be a permissible means of financing the non-Federal share of Medicaid expenditures. CPEs are financing that comes from units of State or local government where the units of

the requirements at section 1902(a)(2) of the Act and § 433.53 that obligate the State to fund at least 40 percent of the non-Federal share of total Medicaid expenditures (both medical assistance and administrative expenditures) with State funds.

Health care-related taxes and IGTs are a critical source of funding for many States' Medicaid programs, including for supporting the non-Federal share of many payments to safety net providers. Health care-related taxes made up approximately 17 percent (\$37 billion) of all States' non-Federal share in 2018, the latest year for which data are available.³ IGTs accounted for approximately 10 percent of all States' non-Federal share for that year. The Medicaid statute clearly permits certain health care-related taxes and IGTs to be used to support the non-Federal share of Medicaid expenditures, and CMS supports States' adoption of these non-Federal financing strategies where consistent with applicable Federal requirements. CMS approves hundreds of State payment proposals annually that are funded by health care-related taxes that appear to meet statutory requirements. The statute and regulations afford States flexibility to tailor health care-related taxes within certain parameters to suit their provider community, broader State tax policies, and the needs of State programs. However, all health care-related taxes must be imposed in a manner consistent with applicable Federal statutes and regulations, which prohibit direct or indirect "hold harmless" arrangements (see section 1903(w)(4); 42 CFR § 433.68(f)).

State or local governmental entity contributes funding of the non-Federal share for Medicaid by certifying to the State Medicaid agency the amount of allowed expenditures incurred for allowable Medicaid activities, including the provision of allowable Medicaid services provided by enrolled Medicaid providers. States infrequently use CPEs as a financing source in a Medicaid managed care setting, as managed care plans need to be paid prospective capitation payments and CPEs by nature are a retrospective funding source, dependent on the amount of expenditures the unit of State or local government certifies that it already has made.

3 U.S. Government Accountability Office, "Medicaid: CMS Needs More Information on States' Financing and Payment Arrangements to Improve Oversight," GAO-21-98, December 7, 2020, available at <https://www.gao.gov/products/gao-21-98>.

States first began to use health care-related taxes and provider-related donations in the mid-1980s as a way to finance the non-Federal share of Medicaid payments (Congressional Research Service, “Medicaid Provider Taxes,” August 5, 2016, page 2). Providers would agree to make a donation or would support (or not oppose) a tax on their activities or revenues, and these mechanisms (donations or taxes) would generate funds that could then be used to raise Medicaid payment rates to the providers. Frequently, these programs were designed to hold Medicaid providers “harmless” for the cost of their donation or tax payment. As a result, Federal expenditures rapidly increased without any corresponding increase in State expenditures, since the funds used to increase provider payments came from the providers themselves and were matched with Federal funds. In 1991, Congress passed the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments (Pub. L. 102-234, enacted December 12, 1991) to establish limits for the use of provider-related donations and health care-related taxes to finance the non-Federal share of Medicaid expenditures. Statutory provisions relating to health care-related taxes and donations are in section 1903(w) of the Act.

Section 1903(w)(1)(A)(i)(II) requires that health care-related taxes be broad-based as defined in section 1903(w)(3)(B), which specifies that the tax must be imposed with respect to a permissible class of health care items or services (as described in section 1903(w)(7)(A)) or with respect to providers of such items or services and generally imposed at least with respect to all items or services in the class furnished by all non-Federal, nonpublic providers or with respect to all non-Federal, nonpublic providers; additionally, the tax must be imposed uniformly in accordance with section 1903(w)(3)(C). However, section 1903(w)(1)(A)(iii) of the Act disallows the use of revenues from a broad-based health care related tax if there is in effect a hold harmless arrangement described in section 1903(w)(4) with respect to the tax. Section

1903(w)(4) of the Act specifies that, for purposes of section 1903(w)(1)(A)(iii), there is in effect a hold harmless provision with respect to a broad-based health care related tax if the Secretary determines that any of the following applies: (A) the State or other unit of government imposing the tax provides (directly or indirectly) for a non-Medicaid payment to taxpayers and the amount of such payment is positively correlated either to the amount of the tax or to the difference between the amount of the tax and the amount of the Medicaid payment; (B) all or any portion of the Medicaid payment to the taxpayer varies based only upon the amount of the total tax paid; or (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. Section 1903(w)(1)(A) of the Act specifies that, for purposes of determining the Federal matching funds to be paid to a State, the total amount of the State's Medicaid expenditures must be reduced by the amount of revenue received by the State (or by a unit of local government in the State) from impermissible health care-related taxes, including, as specified in section 1903(w)(1)(A)(iii) of the Act, from a broad-based health care related tax for which there is in effect a hold harmless provision described in section 1903(w)(4) of the Act.

In response to the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, we published the “Medicaid Program; Limitations on Provider-Related Donations and Health Care-Related Taxes; Limitations on Payments to Disproportionate Share Hospitals” interim final rule with comment period in the November 24, 1992 **Federal Register** (57 FR 55118) (November 1992 interim final rule) and the subsequent final rule published in the August 13, 1993 **Federal Register** (58 FR 43156) (August 1993 final rule) establishing when States may receive funds from provider-related donations and health care-related taxes without a reduction in medical assistance expenditures for the purposes of calculating FFP.

After the publication of the August 1993 final rule, we revisited the issue of health care-related taxes and provider-related donations in the “Medicaid Program; Health-Care Related Taxes” final rule (73 FR 9685) which published in the February 22, 2008 **Federal Register** (February 2008 final rule). The February 2008 final rule, in part, made explicit that certain practices would constitute a hold harmless arrangement, in response to certain State tax programs that we believed contained hold harmless provisions. For example, five States had imposed a tax on nursing homes and simultaneously created programs that awarded grants or tax credits to private pay residents of nursing facilities that enabled these residents to pay increased charges imposed by the facilities, which thereby recouped their own tax costs. We believed that these payments held the taxpayers (the nursing facilities) harmless for the cost of the tax, as the tax program repaid the facilities indirectly, through the intermediary of the nursing facility residents. However, in 2005, the DAB (Decision No. 1981) ruled that such an arrangement did not constitute a hold harmless arrangement under the regulations then in place (73 FR 9686-9687). Accordingly, in discussing revisions to the hold harmless guarantee test in § 433.68(f)(3), the February 2008 final rule preamble explained that a State can provide a direct or indirect guarantee through a direct or indirect payment. We stated that a direct guarantee will be found when, “a payment is made available to a taxpayer or party related to the taxpayer with the reasonable expectation that the payment would result in the taxpayer being held harmless for any part of the tax” as a result of the payment (73 FR 9694). We noted parenthetically that such a direct guarantee can be made by the State through direct or indirect payments. *Id.* As an example of a party related to the taxpayer, the preamble cited the example of, “as a nursing home resident is related to a nursing home” (73 FR 9694). As discussed in this preamble to the February 2008 final rule, whenever there exists a “reasonable expectation” that the taxpayer will

be held harmless for the cost of the tax by direct or indirect payments from the State, a hold harmless situation exists and the tax is impermissible for use to support the non-Federal share of Medicaid expenditures.

Non-Federal Share Financing and State Directed Payments

The statutory requirements in sections 1902(a)(2), 1903(a), 1903(w), and 1905(b) of the Act concerning the non-Federal share contribution and financing requirements, including those implemented in 42 CFR part 433, subpart B concerning health care-related taxes, bona fide provider related donations, and IGTs, apply to all Medicaid expenditures regardless of delivery system (fee-for-service or managed care). We employ various mechanisms for reviewing State methods for financing the non-Federal share of Medicaid expenditures. This includes, but is not limited to, reviews of fee-for-service SPAs, reviews of managed care SDPs, quarterly financial reviews of State expenditures reported on the Form CMS-64, focused financial management reviews, and reviews of State health care-related tax and provider-related donation proposals and waiver requests.

We reiterated this principle in the 2020 Medicaid managed care rule, noting “certain financing requirements in statute and regulation are applicable across the Medicaid program irrespective of the delivery system (for example, fee-for-service, managed care, and demonstration authorities), and are similarly applicable whether a State elects to direct payments under § 438.6(c)” (85 CFR 72765). Further, section 1903(m)(2)(A) of the Act limits FFP in prepaid capitation payments to MCOs for coverage of a defined minimum set of benefits to cases in which the prepaid payments are developed on an actuarially sound basis for assuming the cost of providing the benefits at issue to Medicaid managed care enrollees. CMS has extended this

requirement, through rulemaking under section 1902(a)(4) of the Act, to PIHPs and PAHPs as well.

As part of our review of SDP proposals, we are increasingly encountering issues with State financing of the non-Federal share of SDPs, including use of health care-related taxes and IGT arrangements that may not be in compliance with the underlying Medicaid requirements for non-Federal share financing. In January 2021, CMS released a revised preprint form that systematically collects documentation regarding the source(s) of the non-Federal share for each SDP and requires States to provide additional assurances and details specific to each financing mechanism, which has contributed to our increased awareness of non-Federal share financing issues associated with SDPs.⁴ Concerns around the funding of the non-Federal share for SDPs have been raised by oversight bodies,^{5,6} and the Department of Health and Human Services Office of Inspector General (OIG) is currently conducting an audit of States' use of what are often referred to as Local Provider Participation Funds to support the non-Federal share of Medicaid payments, for which CMS has evidence that appear to suggest the use of hold harmless arrangements in connection with health care-related taxes.⁷

In recent years, we have identified instances in which States appear to be funding the non-Federal share of Medicaid payments including SDPs, through health care-related tax

4 [HYPERLINK "<https://www.medicaid.gov/medicaid/managed-care/downloads/sdp-4386c-preprint-template.pdf>"].

5 See U.S. Government Accountability Office, "Medicaid: CMS Needs More Information on States' Financing and Payment Arrangements to Improve Oversight," GAO-21-98, December 7, 2020, available at <https://www.gao.gov/products/gao-21-98>.

6 See Medicaid and CHIP Payment and Access Commission, "Oversight of Managed Care Directed Payments," June 2022, available at <https://www.macpac.gov/wp-content/uploads/2022/06/Chapter-2-Oversight-of-Managed-Care-Directed-Payments-1.pdf>.

7 U.S. Department of Health and Human Services Office of the Inspector General, "States' Use of Local Provider Participation Funds as the State Share of Medicaid Payments", W-00-22-31557, report expected 2023, work plan available at [HYPERLINK "<https://www.oig.hhs.gov/reports-and-publications/workplan/summary/wp-summary-0000626.asp>"].

programs that appear to involve an impermissible hold harmless arrangement. In these arrangements, with varying degrees of State awareness and involvement, providers appear to have pre-arranged agreements to redistribute Medicaid payments (or other provider funds that are replenished by Medicaid payments). These redistribution arrangements are not described on the States' SDP applications; if an SDP preprint stated that Medicaid payments ultimately would be directed to a recipient not based on the delivery of Medicaid services, we could not approve the SDP under section 1903(a) of the Act, which limits Federal financial participation to reimbursement for medical assistance and qualifying administrative activities. The fact that these apparent hold harmless arrangements are not made explicit on SDP preprints does not change our inability to approve SDPs that involve such redistribution arrangements.

These arrangements appear designed to redirect Medicaid payments away from the providers that furnish the greatest volume of Medicaid-covered services toward providers that provide fewer, or even no, Medicaid-covered services, with the effect of ensuring that taxpaying providers are held harmless for all or a portion of their cost of the health care-related tax. In the arrangements, a State or other unit of government imposes a health-care related tax, then uses the tax revenue to fund the non-Federal share of SDPs that require Medicaid managed care plans to pay the provider taxpayers. The taxpayers appear to enter a pre-arranged agreement to redistribute the Medicaid payments to ensure that all taxpayers, when accounting for both their original Medicaid payment (from the State through a managed care plan) and any redistribution payment received from another taxpayer(s) or other entity, receive back (and are thereby held harmless for) all or at least a portion of their tax amount.

Providers that serve a relatively low percentage of Medicaid patients or no Medicaid patients often do not receive enough Medicaid payments funded by a health care-related tax to

cover the total cost of the tax. Providers in this position are unlikely to support a State or locality establishing or continuing a health care-related tax because the tax would have a negative financial impact on them. Redistribution arrangements like those just described seek to eliminate this negative financial impact or turn it into a positive financial impact for taxpaying providers, likely leading to broader support among the provider class of taxpayers for legislation establishing or continuing the tax. Based on limited information we have been able to obtain from providers participating in such arrangements, we believe providers with relatively higher Medicaid volume agree to redistribute some of their Medicaid payments to ensure broad support for the tax program, which works to these providers' advantage since the tax supports increased Medicaid payments to them (even net of Medicaid payments that they redistribute to other providers). Doing so helps ensure that State or local governments are successful in enacting or continuing provider tax programs.

The Medicaid statute does not permit us to approve any State payment proposal that would distribute Medicaid payments to providers based on the cost of a health care-related tax instead of based on Medicaid services, so payment redistribution arrangements often occur without notice to CMS (and possibly States) and are not described as part of a State payment proposal submitted for CMS review and approval (see, section 1903(w)(4) of the Act). For example, we would not approve an SDP that would provide payments to a hospital that did not participate in Medicaid or payments in the amount of the hospital's total cost of a health care-related tax. Nor would we approve an SDP that would establish a Medicaid payment to a hospital with a low percentage of Medicaid revenue based on the difference between the hospital's total cost of a health care-related tax and other Medicaid payments received by the hospital. As a result, the redistribution arrangements seek to achieve what cannot be accomplished explicitly

through a CMS-approved payment methodology (that is, redirecting Medicaid funds to hold taxpayer providers harmless for their tax cost, with a net effect of directing Medicaid payments to providers based on criteria other than their provision of Medicaid-covered services).

Redistribution arrangements undermine the fiscal integrity of the Medicaid program and are inconsistent with existing statutory and regulatory requirements prohibiting hold harmless arrangements. Currently, § 433.68(f)(3), implementing section 1903(w)(4)(C) of the Act, provides that a hold harmless arrangement exists where a State or other unit of government imposing a health care-related tax provides for any direct or indirect payment, offset, or waiver such that the provision of the payment, offset, or waiver directly or indirectly guarantees to hold taxpayers harmless for all or any portion of the tax amount. The February 2008 final rule on health care-related taxes specified that hold harmless arrangements prohibited by § 433.68(f)(3) exist “[w]hen a State payment is made available to a taxpayer or a party related to the taxpayer (for example, as a nursing home resident is related to a nursing home), in the reasonable expectation that the payment would result in the taxpayer being held harmless for any part of the tax” (73 FR 9694, quoting preamble discussion from the proposed rule). Regardless of whether the taxpayers participate voluntarily, whether the taxpayers receive the Medicaid payments from a managed care plan, or whether taxpayers themselves or another entity make redistribution payments using the very dollars received as Medicaid payments or with other provider funds that are replenished by the Medicaid payments, the taxpayers participating in these redistribution arrangements have a reasonable expectation that they will be held harmless for all or a portion of their tax amount.

We stated that the addition of the words “or indirectly” in the regulation indicates that the State itself need not be involved in the actual redistribution of Medicaid funds for the purpose of

returning tax amounts to taxpayers in order for the arrangement to qualify as a hold harmless (73 FR 9694). We further explained in the same preamble that we used the term “reasonable expectation” because “State laws were rarely overt in requiring that State payments be used to hold taxpayers harmless” (73 FR 9694). Hold harmless arrangements need not be overtly established through State law or contracts, but can be based upon a reasonable expectation that certain actions will take place among participating entities to return to taxpaying providers all or any portion of their tax amounts. The redistribution arrangements detailed earlier constitute a hold harmless arrangement described in section 1903(w)(4) of the Act and implementing regulations in part 433. Such arrangements require a reduction of the State’s medical assistance expenditures as specified by section 1903(w)(1)(A)(iii) of the Act and § 433.70(b).

Redistribution agreements also interfere with Federal Medicaid funds being expended on medical assistance and allowable administrative expenditures as required by section 1903(a) of the Act. Statute and regulations provide FFP only for approved Medicaid services and administrative costs; this requirement also applies to SDPs. We have clarified in guidance that State directed payment approval “does not provide authority for a new benefit or service.”⁸ As such, SDPs must be limited to payments for services that are covered under the contract.

In the past, we have identified other instances of impermissible redirection or redistribution of Medicaid payments and have taken action to enforce compliance with the statute. For example, the Department of Health and Human (HHS) Departmental Appeals Board (DAB) upheld our decision to disallow a payment redirection arrangement in a State under a FFS State plan amendment, citing section 1903(a)(1) of the Act, among other requirements (HHS, DAB Decision No. 2103, July 31, 2007). Specifically, the DAB found that written agreements

⁸ CMS, “Additional Guidance on State Directed Payments in Medicaid Managed Care,” SMD 21-001 (January 8, 2021).

among certain hospitals redirected Medicaid payments. The payments were not retained by the hospitals to offset their Medicaid costs, as required under the State plan. Instead, pre-arranged agreements redirected Medicaid payments to other entities to fund non-Medicaid costs. In its decision, the DAB stated, “Hence, they were not authorized by the State plan or Medicaid statute[.]” When providers redistribute their Medicaid payments for purposes of holding taxpayers harmless or otherwise, in effect, the State’s claim for FFP in these provider payments is not limited to the portion of the payment that the provider actually retains as payment for furnishing Medicaid-covered services, but also includes the portion that the provider diverts for a non-Medicaid activity ineligible for FFP (for example, holding other taxpayers harmless for their tax costs). This payment of FFP for non-qualifying activities also has the effect of impermissibly inflating the Federal matching rate that the State receives for qualifying Medicaid expenditures above the applicable, statutorily-specified matching rate (see, for example, sections 1903(a), 1905(b), 1905(y), and 1905(z) of the Act).

Ensuring permissible non-Federal share sources and ensuring that FFP is only paid to States for allowable Medicaid expenditures is critical to protecting Medicaid’s sustainability through responsible stewardship of public funds. State use of impermissible non-Federal share sources often artificially inflates Federal Medicaid expenditures. Further, these arrangements reward providers based on their ability to fund the State share, and disconnect the Medicaid payment from Medicaid services, quality of care, health outcomes, or other Medicaid program goals. Of critical concern, it appears that the redistribution arrangements are specifically designed to redirect Medicaid payments away from Medicaid providers that serve a high percentage of Medicaid beneficiaries to providers that do not participate in Medicaid or that have relatively lower Medicaid utilization.

States have cited challenges with identifying and providing details on redistribution arrangements when we have requested such information during the review of SDPs. The current lack of transparency prevents both CMS and States from having information necessary for reviewing both the proposed non-Federal share financing source and the proposed payment methodology to ensure they meet Federal requirements. We recognize that some States have also expressed concerns with ongoing oversight activities in which CMS is attempting to obtain information that may involve arrangements to which only private entities are a party. We are only interested in any business arrangements among private entities that could result in a violation of Federal statutory and regulatory requirements.

As noted above, we recognize that health care-related taxes can be critical tools for financing payments that support Medicaid, but they must be implemented in accordance with applicable statutory and regulatory requirements. This proposed rule would ensure that CMS and States have necessary information about any arrangements in place that would redistribute Medicaid payments, as authorized under 1902(a)(4) which gives CMS authority to prescribe means to ensure the proper and efficient operation of the State plan and make clear that we have the authority to disapprove proposed SDPs if States identify the existence of such an arrangement or do not provide required information. The proposed new attestation requirement would help ensure appropriate transparency regarding the use of Medicaid payments and any relationship to the non-Federal share source(s), and aims to do so without interfering with providers' normal business arrangements.

Currently, § 438.6(c) does not explicitly state that compliance with statutory requirements and regulations outside of part 438 related to the financing of the non-Federal share is required for SDPs to be approvable or that CMS may deny approval for an SDP based on a

State's failure to demonstrate that the financing of the non-Federal share is fully compliant with applicable Federal law. The requirements applicable to health care-related taxes, bona fide provider related donations, and IGTs also apply to the non-Federal share of expenditures for payments under part 438. Currently, § 438.6(c)(1)(ii)(E) provides that a State must demonstrate to CMS, in writing, that an SDP does not condition provider participation in the SDP on the provider entering into or adhering to intergovernmental transfer agreement. We believe that this existing requirement is not sufficient to ensure compliance with applicable Federal requirements for the source(s) of non-Federal share. We are concerned that the failure of the current regulations to explicitly condition approval of an SDP on the State demonstrating compliance with applicable Federal requirements for the source(s) of non-Federal share potentially compromises our ability to disapprove an SDP where it appears the SDP arrangement is supported by impermissible non-Federal share financing arrangements. Given the growing number of SDPs that raise potential financing concerns, and the growing number of SDPs generally, we believe it is important to be explicit in the regulations governing SDPs that the same financing requirements governing the sources of the non-Federal share apply regardless of delivery system, and that CMS will scrutinize the source of the non-Federal share of SDPs during the preprint review process. We propose to revise § 438.6(c)(2)(ii) to add a new paragraph (c)(2)(ii)(G) that would explicitly require that an SDP comply with all Federal legal requirements for the financing of the non-Federal share, including but not limited to, 42 CFR part 433, subpart B, as part of the CMS review process.

We also propose to revise § 438.6(c)(2)(ii) to ensure transparency regarding the use of SDPs and to ensure that the non-Federal share of SDPs is funded with a permissible source. Under our proposal, States would be required to ensure that each participating provider in an

SDP arrangement attests that it does not participate in any hold harmless arrangement with respect to any health care-related tax as specified in § 433.68(f)(3) in which the State or other unit of government imposing the tax provides for any direct or indirect payment, offset, or waiver such that the provision of the payment, offset, or waiver directly or indirectly guarantees to hold the provider harmless for all or any portion of the tax amount. Such hold harmless arrangements include those that produce a reasonable expectation that taxpaying providers would be held harmless for all or a portion of their cost of a health care-related tax. States would be required to note in the preprint their compliance with this requirement prior to our approval of any contractual payment arrangement directing how Medicaid managed care plans pay providers. States would implement this requirement by obtaining each provider's attestation, and make such attestations available upon CMS request.

Under this proposal, CMS may deny approval of an SDP if it does not comply with any of the standards in § 438.6(c)(2)(ii), including the financing of the non-Federal share is not fully compliant with all Federal legal requirements for the financing of the non-Federal share and/or the State does not require an attestation from each provider receiving a payment based on the SDP that it does not participate in any hold harmless arrangement. As part of our proposed restructuring of § 438.6(c)(2), these provisions would apply to all SDPs, regardless of whether written prior approval is required for the SDP contract arrangement. We rely on our authority in section 1902(a)(4) of the Act to require methods of administration as are found by the Secretary to be necessary for the proper and efficient operation of the plan to adopt these requirements for ensuring that the source of the non-Federal share of the financing for SDPs is consistent with section 1903(w) of the Act.

We solicit public comments on our proposals. Given that all Federal legal requirements for the financing of the non-Federal share, including but not limited to, 42 CFR part 433, subpart B, apply regardless of delivery system, we also solicit public comment on whether the proposed changes in § 438.6(c)(2)(ii)(G) and (H) should be incorporated broadly into 42 CFR part 438.

Message

From: Boston, Beverly (CMS/CMCS); (b)(6)
(b)(6)
Sent: 1/4/2023 1:45:32 PM
To: Arnold, Charlie (CMS/CMCS); (b)(6)
(b)(6); Clark, Jennifer
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(b)(6) Fan, Kristin
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CC: (b)(6)
Howe, Rory (CMS/CMCS); (b)(6)
(b)(6) Maccarroll, Amber
(CMS/CMCS); (b)(6)
(b)(6) a]; Silanskis, Jeremy
(CMS/CMCS); (b)(6)
(b)(6) adams, lia (CMS/CMCS)
(b)(6)
Subject: CIB Health Care Related Taxes and Hold Harmless Arrangements
Attachments: Healthcare Related Taxes CIB-Final (CMSDOGCmarkup) FMG.docx

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

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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

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CMCS Informational Bulletin

DATE: xx xx, xxxx

FROM: Daniel Tsai, Deputy Administrator and Director

SUBJECT: Health Care-Related Taxes and Hold Harmless Arrangements Involving the
Redistribution of Medicaid Payments

Background

Recently, the Centers for Medicare & Medicaid Services (CMS) has been approached by several states with questions 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). Many of these questions have focused on whether health care-related tax arrangements involving the redistribution of Medicaid payments among providers subject to the tax would comply with the statutory and regulatory prohibition on hold harmless arrangements, as specified in section 1903(w)(1)(A)(iii) and (w)(4) of the Social Security Act (the Act) and implementing regulations. In response to these questions, this informational bulletin reiterates our longstanding position on the existing federal requirements that pertain to health-care related taxes and re-emphasizes our goal of assisting states in ensuring appropriate sources of non-federal share financing.

CMS recognizes that health care-related taxes are a critically important source of funding for many states' Medicaid programs, including for payments to safety net providers. CMS supports states' adoption of health care-related taxes when they are consistent with federal requirements. CMS approves many state payment proposals annually that are supported by health care-related taxes that appear to meet federal requirements. CMS recognizes the challenges faced by states and health care providers in identifying sources of non-federal share financing and implementing payment methodologies that pay appropriately for services furnished to Medicaid beneficiaries.

The statute and regulations afford states flexibility to tailor health care-related taxes within certain parameters to meet their provider community needs and align with broader state tax policies and the state's priorities for its Medicaid program. CMS remains committed to providing states with technical assistance aiming to ensure that health care-related taxes used to finance the non-federal share of Medicaid expenditures meet the states' policy goals and comply with federal requirements. There are statutory and regulatory flexibilities afforded states in how they design health care-related tax programs. For example, CMS is authorized to waive the requirements that health care-related taxes be broad-based and/or uniform, when applicable conditions are met. CMS regularly works with states to approve such waivers in furtherance of state goals while still complying with federal requirements.

Although the applicable statutory and regulatory provisions afford states considerable flexibility in establishing health care-related taxes, such taxes must be imposed in a manner consistent with applicable federal statutes and regulations, including that they may not involve hold harmless arrangements, to avoid a reduction in the state's Medicaid expenditures eligible for federal financial participation. Occasionally, CMS encounters health care-related tax programs that appear to contain hold harmless arrangements, which are inconsistent with section 1903(w)(1)(A)(iii) and (w)(4) of the Act and 42 C.F.R. § 433.68(b)(3) and (f). Such arrangements are inconsistent with existing statutory and regulatory requirements and undermine the fiscal integrity of the Medicaid program. Recently, CMS has become aware of some health care-related tax arrangements that appear to contain a hold harmless arrangement that involves the taxpaying providers redistributing Medicaid payments after receipt to ensure that all taxpaying providers receive all or a portion of their tax costs back (typically ensuring that each taxpaying provider receives at least its total tax amount back).

In this informational bulletin, CMS is clarifying the federal requirements concerning hold harmless arrangements with respect to health care-related taxes. Further, we are encouraging states and providers to be as transparent as possible regarding any agreements in place or under development to ensure that all health care-related taxes meet federal requirements to avoid a statutorily required reduction in the state's Medicaid expenditures eligible for federal financial participation. CMS recommends that states that have concerns about the permissibility of a health care-related tax to raise these concerns to CMS early in the process of developing the state's tax program to avoid issues surrounding the permissibility of the non-federal share of Medicaid expenditures.

Health Care-Related Taxes and Hold Harmless Arrangements

During standard oversight activities and the review of state payment proposals, particularly managed care state directed payments (SDPs) and fee-for-service payment state plan amendments (SPAs), CMS is increasingly encountering health care-related taxes that appear to contain hold harmless arrangements involving the redistribution of Medicaid payments. In these arrangements, a state or other unit of government imposes a health-care related tax, then uses the tax revenue to support the non-federal share of Medicaid payments back to the class of providers subject to the tax. The taxpayers appear to have entered into oral or written agreements (meaning explicit or implicit meeting of the minds, regardless of the formality or informality of any such agreement) to redirect or redistribute the Medicaid payments to ensure that all taxpayers receive all or a portion of their tax costs back, when considering each provider's retained portion of any original Medicaid payment (either directly from the state or from the state through an MCO) and any redistribution payment received by the provider from another taxpayer or taxpayers. These redistribution payments may be made directly from one taxpaying provider to another, or the funds may be contributed first to an intermediary redistribution pool.

In these hold harmless arrangements, there appear to be agreements among providers such that providers that furnish a relatively high percentage of Medicaid-covered services redistribute a portion of their Medicaid payments to providers with relatively lower (or no) Medicaid service percentage. The redistributions occur so that taxpaying providers are held harmless for all or a portion of the cost of a health care-related tax. This may include the redistribution of Medicaid payments to providers that serve no Medicaid beneficiaries.

These taxes appear to contain impermissible hold harmless arrangements as defined in section 1903(w)(4)(C)(i) of the Act and 42 CFR 433.68(f)(3) that would lead to a reduction in medical assistance expenditures prior to the calculation of federal financial participation as required under section 1903(w)(1)(A) and (w)(1)(A)(iii) of the Act. Here is a detailed example of a hold harmless arrangement involving Medicaid payment redistribution:

- A state imposes a hospital tax based on the volume of inpatient hospital services provided. The tax is broad-based, uniform, and is imposed on 10 hospitals.
- Six of the hospitals serve a high percentage of Medicaid beneficiaries, three serve a low percentage of Medicaid beneficiaries, and one hospital does not participate in Medicaid.
- The state uses the tax revenue as the source of non-federal share of Medicaid payments, which are made back to nine of the hospitals through SDPs. The tenth hospital, which does not participate in Medicaid, does not receive any SDPs directly from state-contracted MCOs.
- All ten hospitals enter into oral or written agreements (meaning an explicit or implicit meeting of the minds, regardless of the formality or informality of any such agreement) to redirect or redistribute the Medicaid payments that the nine Medicaid-participating hospitals receive. Under this arrangement, the six hospitals that furnish a high percentage of Medicaid-covered services receive Medicaid payments from MCOs, then redistribute a portion of their Medicaid payments to the remaining four hospitals with lower Medicaid service percentages (including to the one hospital that does not participate in Medicaid). The redistribution amounts are calculated to guarantee that all hospitals, including those redistributing their own payments and those receiving the redistribution amounts, receive most, all, or more than all of their total tax cost back.
- The agreement among the taxpaying hospitals results in a reasonable expectation that the taxpaying hospitals, whether directly through their Medicaid payments or due to the availability of the redistributed payments received from the six high Medicaid service volume hospitals (regardless of whether the funds were first pooled and then redistributed), are held harmless for at least part of their health care-related tax costs.
- The high-percentage Medicaid hospitals are willing to participate because they still financially benefit from the tax program (even net of the redistribution payments they make to the lower Medicaid service volume hospitals), and the redistribution enables broad support for the tax program from all hospitals, ensuring constituent support for the state law authorizing tax program.
- Any increased payments the hospitals receive as a result of the distribution arrangements are federal dollars and there is no net increase paid for with state funds.

Section 1903(w)(4) of the Act describes what constitutes a hold harmless arrangement. Specifically, section 1903(w)(4)(C)(i) provides that a hold harmless provision exists where “[t]he 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.” Implementing regulations at 42 CFR 433.68(f)(3) specify that a hold harmless arrangement exists where “[t]he State (or other unit of government) imposing the tax provides for any direct or indirect payment, offset, or waiver such that the provision of the payment, offset, or waiver directly or indirectly guarantees to hold taxpayers harmless for all or any

portion of the tax amount” (emphasis added). In the preamble to the 2008 final rule amending the above-referenced regulation, CMS wrote that “[a] direct guarantee will be found when a State payment is made available to a taxpayer or a party related to the taxpayer with the reasonable expectation that the payment would result in the taxpayer being held harmless for any part of the tax (through direct or indirect payments).”¹

The word “indirect” in the regulation, highlighted in the excerpt above, makes clear that the state itself need not be involved in the actual redistribution of Medicaid payments for the purpose of making taxpayers whole for the arrangement to qualify as a hold harmless. The word “indirect” appears twice in the regulation. We are referring here to indirect payments because indirect guarantees are already defined in the regulation at 42 CFR § 433.68 (f)(3)(i)(a). A state can directly provide a payment within the meaning of section 1903(w)(4)(C)(i) of the Act that guarantees to hold taxpayers harmless for any portion of the costs of the tax even if some of the taxpayers that are held harmless receive the payment through an intermediary rather than directly from the state or its contracted MCO. As CMS further explained in preamble to the 2008 final rule, we used the term “reasonable expectation” because “state laws were rarely overt in requiring that state payments be used to hold taxpayers harmless.”² We gave an example of state laws providing grants to nursing home residents who experienced increased charges as a result of nursing facility bed taxes; even though no state law typically required residents to use the grant funds to pay the increased nursing home fees, these direct state payments to nursing home residents indirectly held the nursing facilities harmless for their health care-related tax costs because of the reasonable expectation that their residents would use the state payments to repay the nursing facilities for all or a portion of their tax costs.³ It remains true that hold harmless arrangements typically are not overtly established through state law but can be based instead on reasonable expectations that certain actions will take place among participating entities that will result in taxpayers being held harmless for all or a portion of their health care-related tax costs.

Accordingly, an arrangement in which hospitals receive Medicaid payments from the state (or from a state-contracted MCO), then redistribute those payments such that taxed providers are held harmless for all or any portion of their cost of the tax, would constitute a prohibited hold harmless provision under section 1903(w)(4)(C)(i) of the Act and 42 CFR 433.68(f)(3). Section 1903(w)(1)(A)(iii) of the Act and 42 CFR 433.70(b) require that CMS reduce a state’s medical assistance expenditures by the amount of health care-related tax collections that include hold harmless arrangements, prior to calculating federal financial participation.

Some states have cited challenges with identifying and providing details on redistribution arrangements because they may not be parties to the redistribution agreements. A lack of transparency involving health care-related taxes and Medicaid payments may prevent both CMS and states from having information necessary to ensure sources of non-federal share meet statutory requirements.

As part of the agency’s normal oversight activities, CMS intends to inquire about potential redistribution arrangements and may conduct detailed financial management reviews of health care-related tax programs that appear to include redistribution arrangements or that CMS has information may include redistribution arrangements. Consistent with federal requirements,

¹ 73 Federal Register 9685, 9694-95 (Feb. 22, 2008).

² 73 Federal Register 9694

³ *Id.*

CMS expects states to make available all requested documentation regarding arrangements involving possible hold harmless arrangements and the redistribution of Medicaid payments, and states should work with their providers to ensure necessary information is available. Where appropriate, states may wish to examine their provider participation agreements and MCO contracts to ensure that providers, as a condition of participation in Medicaid and/or of network participation for a Medicaid managed care plan, agree to provide necessary information to the state. States may consult section 1902(a)(6) of the Act, 45 CFR 75.364, and 42 CFR 433.74 for requirements related to CMS' authority to request records and documentation related to the Medicaid program. In particular, 42 CFR 433.74(a) requires that states, "must also provide any additional information requested by the Secretary related to any . . . taxes imposed on . . . health care providers," and the "States' reports must present a complete, accurate, and full disclosure of all of their donation and tax programs and expenditures." 42 CFR 433.74(d) specifies that a failure to comply with reporting requirements may result in a deferral or disallowance of federal financial participation. CMS is available to provide technical assistance and work with states to ensure the permissibility of all of the sources of the non-federal share of Medicaid expenditures, including any health care-related taxes the state may impose.

Conclusion

CMS recognizes that health care-related taxes can be a permissible source of funding for the non-federal share of Medicaid expenditures. CMS is available to provide technical assistance to states, reviewing proposals and providing feedback to develop health care-related taxes that align with state policy goals and meet federal requirements. One key federal requirement is that a health care-related tax cannot have a hold harmless provision that guarantees to return all or a portion of the tax back to the taxpayer. Health care-related tax programs in which taxpayers enter into agreements redistribute Medicaid payments so that taxpayers have a reasonable expectation that they will receive all or a portion of their tax cost back generally involve a hold harmless arrangement that does not comply with federal statute and regulations.

CMS will continue to approve permissible health care-related taxes that do not contain hold harmless arrangements and meet all other applicable federal requirements. These taxes often finance critical health care programs that pay for care furnished to Medicaid beneficiaries and shore up the health care safety net in our country. As always, CMS intends to work collaboratively with states by providing technical assistance as necessary to ensure the programmatic and fiscal integrity of the Medicaid program.

For questions or to request technical assistance, please contact Rory Howe at [[HYPERLINK "mailto:rory.howe@cms.hhs.gov"](mailto:rory.howe@cms.hhs.gov)].

Message

From: Boston, Beverly (CMS/CMCS) (b)(6)
(b)(6)
Sent: 1/9/2023 9:36:28 PM
To: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6) Fan, Kristin (CMS/CMCS)
(b)(6)
(b)(6) Arnold, Charlie
(CMS/CMCS) (b)(6)
(b)(6) Clark, Jennifer
(CMS/CMCS) (b)(6)
(b)(6) Goldstein, Stuart
(CMS/CMCS) (b)(6)
(b)(6) Cuno, Richard
(CMS/CMCS) (b)(6)
(b)(6) Endelman (he/him),
Jonathan (CMS/CMCS) (b)(6)
(b)(6)
CC: Maccarroll, Amber (CMS/CMCS) (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS) (b)(6)
(b)(6) adams, lia (CMS/CMCS)
(b)(6)
Subject: RE: RE: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements
Attachments: Internal QAs Healthcare Related Taxes CIB OGC OL REDLINES Jan 9 10am.docx; Healthcare Related Taxes CIB OGC OL REDLINES Jan 9 10AM .docx

Hello,

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

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

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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) <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>; 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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

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Internal Questions and Answers
CIB on HealthCare Taxes and Hold Harmless Arrangements
EXPECTED RELEASE: February 7, 2023

Q: What is CMS announcing today?

CMCS is issuing an informational bulletin (CIB) to states reiterating certain federal requirements that pertain to health-care related taxes. Recently, CMS has discovered health care-related tax programs that appear to involve agreements among providers to redistribute their Medicaid payments to hold taxpayers harmless for the cost of the tax. The CIB 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.

Q: How do these hold harmless arrangements work?

In the arrangements, a state or other unit of government imposes a health-care related tax on certain health care providers, then uses the tax revenue to fund the non-federal share of state directed Medicaid payments back to the provider taxpayers. The taxpayers appear to have a pre-arranged agreement to redistribute the Medicaid payments to ensure that all taxpayers, when accounting for both the original Medicaid payment (from the state directly or through an MCO) and any redistribution payment from another taxpayer or taxpayers, receive all or any portion of their tax amount back—thus, holding the taxpayers harmless.

Q: Why is this CIB important?

In the past few years, it appears that health care-related tax programs with problematic hold harmless arrangements are starting to proliferate. CMS is aware of a few states with such problematic arrangements in place and a few additional states that appear likely to propose similar tax programs soon. These particular tax programs are often emerging in connection with state directed payment proposals under Medicaid managed care. The CIB aims to ensure that states clearly understand the existing requirements so that, as they develop state directed payment and other payment proposals, they can develop approvable non-federal share financing methodologies and make modifications as necessary to come into compliance with federal requirements.

Ensuring permissible non-federal share sources is critical to protecting Medicaid's sustainability through responsible stewardship of public funds. State use of impermissible non-federal share sources can can inflate federal Medicaid expenditures. Further, these arrangements pay providers based on their ability to fund the non-federal share, and disconnect the Medicaid payment from Medicaid services, quality of care, health outcomes, or other Medicaid program goals. Of critical concern, it appears that the redistribution arrangements in this particular type of tax program are specifically designed to redirect Medicaid payments away from Medicaid providers that serve a high percentage of Medicaid individuals to providers that do not participate in Medicaid or have relatively lower Medicaid utilization.

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Q: Does CMS support states' adoption of health care-related taxes?

Yes, when the tax meets statutory and regulatory requirements. CMS approves hundreds of Medicaid non-federal share financing proposals that are funded by health care-related taxes that appear permissible every year.

Q: How will this impact/benefit Medicaid beneficiaries? How will this impact Medicaid providers?

The CIB reiterates existing statutory and regulatory requirements and does not establish new policy. However, impermissible non-federal share financing arrangements can have a negative impact on beneficiaries. For example, these particular arrangements may result in payments (including managed care state-directed payments), after the payment redistributions that provide higher payment to providers based on their ability to fund the state share instead of based on Medicaid utilization, quality, equity, health outcomes, or other Medicaid program goals. Additionally, the payment redistributions are specifically designed to redirect Medicaid payments away from Medicaid providers to lower volume or non-participating Medicaid providers.

Compared to permissible health care-related taxes, these problematic tax programs are more favorable to providers with relatively low Medicaid utilization. It is possible that some states may adjust existing tax programs or alter future tax programs to ensure compliance. Ultimately, we expect that such changes are beneficial to providers with relatively high Medicaid utilization and unfavorable to providers with relatively low Medicaid utilization that currently benefit from redistribution arrangements..

Q. Is today's action being taken in response to any particular state's arrangements relating to generating the non-federal share of Medicaid funding?

No, this action is not being taken in response to any particular state's Medicaid financing arrangements. However, as described above, CMS is aware of existing arrangements that appear problematic, and is concerned that additional states may be planning to implement similar arrangements. Recently, CMCS worked with one state and its hospitals to avoid implementing a problematic tax program and ensure compliance.

CMCS Informational Bulletin

DATE: xx xx, xxxx

FROM: Daniel Tsai, Deputy Administrator and Director

SUBJECT: Health Care-Related Taxes and Hold Harmless Arrangements Involving the
Redistribution of Medicaid Payments

Background

Recently, the Centers for Medicare & Medicaid Services (CMS) has been approached by several states with questions 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). Many of these questions have focused on whether health care-related tax arrangements involving the redistribution of Medicaid payments among providers subject to the tax would comply with the statutory and regulatory prohibition on “hold harmless” arrangements—that is, arrangements in which 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”—as specified in section 1903(w)(1)(A)(iii) and (w)(4) of the Social Security Act (the Act) and implementing regulations. In response to these questions, this informational bulletin reiterates our longstanding position on the existing federal requirements that pertain to health-care related taxes and re-emphasizes our goal of assisting states in ensuring appropriate sources of non-federal share financing.

CMS recognizes that health care-related taxes are a critical source of funding for many states’ Medicaid programs, including for payments to safety net providers. CMS supports states’ adoption of health care-related taxes when they are consistent with federal requirements. CMS approves many state payment proposals annually that are supported by health care-related taxes that appear to meet federal requirements. CMS recognizes the challenges faced by states and health care providers in identifying sources of non-federal share financing and implementing Medicaid payment methodologies that assure payments are consistent with efficiency, economy, quality of care, and access, as required section 1902(a)(30)(A) of the Act.

Medicaid statute and regulations afford states flexibility to tailor health care-related taxes within certain parameters to meet their provider community needs and align with broader state tax policies and priorities for their Medicaid programs. CMS remains committed to providing states with technical assistance aiming to ensure that health care-related taxes used to finance the non-federal share of Medicaid expenditures meet the states’ policy goals and comply with federal requirements. For example, CMS is authorized to waive the requirements that health care-related taxes be broad-based and/or uniform, when applicable conditions are met. CMS regularly works

with states to approve such waivers in furtherance of state goals while complying with federal requirements.

Although the applicable statutory and regulatory provisions afford states considerable flexibility in establishing health care-related taxes, such taxes must be imposed in a manner consistent with applicable federal statutes and regulations, including that they may not involve hold harmless arrangements, to avoid a reduction in the state’s Medicaid expenditures eligible for federal financial participation. Occasionally, CMS encounters health care-related tax programs that appear to contain hold harmless arrangements, which are inconsistent with section 1903(w)(1)(A)(iii) and (w)(4) of the Act and 42 C.F.R. § 433.68(b)(3) and (f). Such arrangements are inconsistent with statutory and regulatory requirements and undermine the fiscal integrity of the Medicaid program. Recently, CMS has become aware of some health care-related tax arrangements that appear to contain a hold harmless arrangement that involves the taxpaying providers redistributing Medicaid payments after receipt to ensure that all taxpaying providers receive all or a portion of their tax costs back (typically ensuring that each taxpaying provider receives at least its total tax amount back).

In this informational bulletin, CMS is clarifying the federal requirements concerning hold harmless arrangements with respect to health care-related taxes. Further, we are encouraging states and providers to be as transparent as possible regarding any agreements in place or under development to ensure that all health care-related taxes meet federal requirements to avoid a statutorily required reduction in the state’s Medicaid expenditures eligible for federal financial participation. CMS recommends that states that have concerns about the permissibility of a health care-related tax raise these concerns to CMS early in the process of developing the state’s tax program to avoid issues surrounding the permissibility of the non-federal share of Medicaid expenditures.

Health Care-Related Taxes and Hold Harmless Arrangements

During standard oversight activities and the review of state payment proposals, particularly managed care state directed payments (SDPs) and fee-for-service payment state plan amendments (SPAs), CMS is increasingly encountering health care-related taxes that appear to contain hold harmless arrangements involving the redistribution of Medicaid payments. In these arrangements, a state or other unit of government imposes a health-care related tax, then uses the tax revenue to support the non-federal share of Medicaid payments back to the class of providers subject to the tax. The taxpayers appear to have entered into oral or written agreements (meaning explicit or implicit meeting of the minds, regardless of the formality or informality of any such agreement) to redirect or redistribute the Medicaid payments to ensure that all taxpayers receive all or a portion of their tax back, when considering each provider’s retained portion of any original Medicaid payment (either directly from the state or from the state through an MCO) and any redistribution payment received by the provider from another taxpayer or taxpayers. These redistribution payments may be made directly from one taxpaying provider to another, or the funds may be contributed first to an intermediary redistribution pool.

In these hold harmless arrangements, there appear to be agreements among providers (explicit or implicit in nature) such that providers that furnish a relatively high percentage of Medicaid-covered services redistribute a portion of their Medicaid payments to providers with relatively lower (or no) Medicaid service percentage, relative to the health care-related tax those providers

paid. The redistributions occur so that taxpaying providers are held harmless for all or a portion of the health care-related tax. This may include the redistribution of Medicaid payments to providers that serve no Medicaid beneficiaries.

These taxes contain impermissible hold harmless arrangements as defined in section 1903(w)(4)(C)(i) of the Act and 42 CFR 433.68(f)(3) that lead to a reduction in medical assistance expenditures prior to the calculation of federal financial participation as required under section 1903(w)(1)(A) and (w)(1)(A)(iii) of the Act. Following is a detailed example of how a hold harmless arrangement involving Medicaid payment redistribution could work:

- A state imposes a hospital tax based on the volume of inpatient hospital services provided. The tax is broad-based, uniform, and is imposed on 10 hospitals.
- Six of the hospitals serve a high percentage of Medicaid beneficiaries, three serve a low percentage of Medicaid beneficiaries, and one hospital does not participate in Medicaid.
- The state uses the tax revenue as the source of non-federal share of Medicaid payments, which are made back to nine of the hospitals through SDPs. The tenth hospital, which does not participate in Medicaid, does not receive any SDPs directly from state-contracted MCOs.
- All ten hospitals enter into oral or written agreements (meaning an explicit or implicit meeting of the minds, regardless of the formality or informality of any such agreement) to redirect or redistribute the Medicaid payments that the nine Medicaid-participating hospitals receive. Under this arrangement, the six hospitals that furnish a high percentage of Medicaid-covered services receive Medicaid payments from MCOs, then redistribute a portion of their Medicaid payments to the remaining four hospitals with lower Medicaid service percentages (including to the one hospital that does not participate in Medicaid). The redistribution amounts are calculated to guarantee that all hospitals, including those redistributing their own payments and those receiving the redistribution amounts, receive most, all, or more than all of their total tax cost back.
- The agreement among the taxpaying hospitals results in a reasonable expectation that the taxpaying hospitals, whether directly through their Medicaid payments or due to the availability of the redistributed payments received from the six high Medicaid service volume hospitals (which may be first pooled and then redistributed), are held harmless for at least part of their health care-related tax costs.
- The high-percentage Medicaid hospitals are willing to participate because they still financially benefit from the tax program (even net of the redistribution payments they make to the lower Medicaid service volume hospitals), and the redistribution enables broad support for the tax program from all hospitals, ensuring constituent support for the state law authorizing tax program.
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Section 1903(w)(4) of the Act describes what constitutes a hold harmless arrangement. Specifically, section 1903(w)(4)(C)(i) provides that a hold harmless provision exists where “[t]he 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.” (emphasis added). Implementing regulations at 42 CFR 433.68(f)(3) specify that a hold harmless arrangement exists where “[t]he State (or other unit of government) imposing the tax provides for any direct or indirect payment, offset, or waiver such that the provision of the

payment, offset, or waiver directly or indirectly guarantees to hold taxpayers harmless for all or any portion of the tax amount” (emphasis added). In the preamble to the 2008 final rule amending the above-referenced regulation, CMS wrote that “[a] direct guarantee will be found when a State payment is made available to a taxpayer or a party related to the taxpayer with the reasonable expectation that the payment would result in the taxpayer being held harmless for any part of the tax (through direct or indirect payments).”¹

The words “indirect” and “indirectly”, included both in the Medicaid statute and in regulation (and underlined in the excerpts above), make clear that the state itself need not be involved in the actual redistribution of Medicaid payments for the purpose of holding taxpayers harmless for the arrangement to qualify as a hold harmless. We are referring here to indirect payments because indirect guarantees are already defined in the regulation at 42 CFR § 433.68 (f)(3)(i)(a). It is possible for a state to directly provide a payment within the meaning of section 1903(w)(4)(C)(i) of the Act that guarantees to hold taxpayers harmless for any portion of the costs of the tax, if or all the taxpayers receive those payments at issue through an intermediary rather than directly from the state or its contracted MCO. As CMS further explained in preamble to the 2008 final rule, we used the term “reasonable expectation” to relate to a state’s understanding of whether the taxpayer is being held harmless because “state laws were rarely overt in requiring that state payments be used to hold taxpayers harmless.”² In the preamble we also gave an example of state laws providing grants to nursing home residents who experienced increased charges as a result of nursing facility bed taxes; even though no state law typically required residents to use the grant funds to pay the increased nursing home fees, these direct state payments to nursing home residents indirectly held the nursing facilities harmless for their health care-related tax costs because of the reasonable expectation that their residents would use the state payments to repay the nursing facilities for all or a portion of their tax costs.³ It remains true that hold harmless arrangements typically are not overtly established through state law but can be based instead on reasonable expectations that certain actions will take place among participating entities that will result in taxpayers being held harmless for all or a portion of their health care-related tax costs.

Accordingly, an arrangement in which providers receive Medicaid payments from the state (or from a state-contracted MCO), then redistribute those payments such that taxed providers are held harmless for all or any portion of their cost of the tax, would constitute a prohibited hold harmless provision under section 1903(w)(4)(C)(i) of the Act and 42 CFR 433.68(f)(3). Section 1903(w)(1)(A)(iii) of the Act and 42 CFR 433.70(b) require that CMS reduce a state’s medical assistance expenditures by the amount of health care-related tax collections that include hold harmless arrangements, prior to calculating federal financial participation.

Some states have cited challenges with identifying and providing details on redistribution arrangements because they may not be parties to the redistribution agreements. A lack of transparency involving health care-related taxes and Medicaid payments may prevent both CMS and states from having information necessary to ensure sources of non-federal share meet statutory requirements.

¹ 73 Federal Register 9685, 9694-95 (Feb. 22, 2008).

² 73 Federal Register 9694

³ *Id.*

As part of the agency's normal oversight activities, CMS intends to inquire about potential redistribution arrangements and may conduct detailed financial management reviews of health care-related tax programs that appear to include redistribution arrangements or that CMS has information may include redistribution arrangements. Consistent with federal requirements, CMS expects states to make available all requested documentation regarding arrangements involving possible hold harmless arrangements and the redistribution of Medicaid payments, and states should work with their providers to ensure necessary information is available. Where appropriate, states may wish to examine their provider participation agreements and MCO contracts to ensure that providers, as a condition of participation in Medicaid and/or of network participation for a Medicaid managed care plan, agree to provide necessary information to the state. States may consult section 1902(a)(6) of the Act, 45 CFR 75.364, and 42 CFR 433.74 for requirements related to CMS' authority to request records and documentation related to the Medicaid program. In particular, 42 CFR 433.74(a) requires that states, "must also provide any additional information requested by the Secretary related to any . . . taxes imposed on . . . health care providers," and the "States' reports must present a complete, accurate, and full disclosure of all of their donation and tax programs and expenditures." 42 CFR 433.74(d) specifies that a failure to comply with reporting requirements may result in a deferral or disallowance of federal financial participation. CMS is available to provide technical assistance and work with states to ensure the permissibility of all of the sources of the non-federal share of Medicaid expenditures, including any health care-related taxes the state may impose.

Conclusion

CMS recognizes that health care-related taxes can be a permissible source of funding for the non-federal share of Medicaid expenditures. CMS is available to provide technical assistance to states, including by reviewing proposals and providing feedback to develop health care-related taxes that align with state policy goals and meet federal requirements. One key federal requirement is that a health care-related tax cannot have a hold harmless provision that guarantees to return all or a portion of the tax back to the taxpayer. Health care-related tax programs in which taxpayers enter into agreements (explicit or implicit in nature) to redistribute Medicaid payments so that taxpayers have a reasonable expectation that they will receive all or a portion of their tax cost back generally involve a hold harmless arrangement that does not comply with federal statute and regulations.

CMS will continue to approve permissible health care-related taxes that do not contain hold harmless arrangements and meet all other applicable federal requirements. These taxes often finance critical health care programs that pay for care furnished to Medicaid beneficiaries and shore up the health care safety net in our country. As always, CMS intends to work collaboratively with states by providing technical assistance as necessary to ensure the programmatic and fiscal integrity of the Medicaid program.

For questions or to request technical assistance, please contact Rory Howe at [HYPERLINK "mailto:rory.howe@cms.hhs.gov"].

Message

From: Boston, Beverly (CMS/CMCS) (b)(6)
(b)(6)
Sent: 4/13/2023 6:15:33 PM
To: Silanskis, Jeremy (CMS/CMCS) (b)(6)
(b)(6) Howe, Rory (CMS/CMCS)
(b)(6) Maccarroll, Amber
(CMS/CMCS) (b)(6)
CC: (b)(6)
adams, lia (CMS/CMCS) (b)(6)
(b)(6)
Subject: OSORA Pinging Lela: OA Issues Item - MA FQHC Write-up
Attachments: MA FQHC PPS OA Brief 4-13-23.docx

Hello,
Can the blurb move forward?

Massachusetts State Plan Amendment 22-0002 – Federally Qualified Health Center (FQHC)

CMCS will brief and seek concurrence from the Administrator on a pending Massachusetts state plan amendment (SPA 22-0002). The SPA proposes to establish a prospective payment system (PPS) rate for FQHCs to come into compliance with the Social Security Act (the Act). Beginning in 2001, the Act required states to establish PPS rates based on cost report data from 1999 and 2000, however, MA's state plan has not included a compliant PPS methodology consistent with the statute and the state has relied exclusively on an alternative payment methodology to pay providers. Based on the state's movement toward value-based purchasing, providers requested the state to establish provider-specific PPS rates. In reviewing the 1999 and 2000 cost report data, the state determined that some of the provider-specific data included errors that could not be remedied due to the age of the data. After significant collaboration with the provider community, the state is requesting to use a reasonable cost determination to account for outlier data. The reasonable cost policy, which is incorporated into Medicaid statute by reference to Medicare statute, would bind outlier providers within low and high end percentiles of all providers' PPS rates to bring the outliers in line with the range of provider PPS rates. CMCS has collaborated with OGC and CM colleagues to review the relevant statutory and implementing guidance and believe the state's proposal is supportable. Although the SPA is pending off of the federal review clock, the state has indicated urgency in receiving approval as the proposal is crucial to implementing the value-based purchasing initiative.

- Decision deadline: April, 23, 2023
- Briefer: Rory Howe, Director, Financial Management Group, Jeremy Silanskis, Deputy Director, Financial Management Group
- IRA-Related Policies: N/A

Beverly

From: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Sent: Thursday, April 13, 2023 11:48 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Cc: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: OA Issues Item - MA FQHC Write-up

Massachusetts State Plan Amendment 22-0002 – Federally Qualified Health Center (FQHC)

CMCS will brief and seek concurrence from the Administrator on a pending Massachusetts state plan amendment (SPA 22-0002). The SPA proposes to establish a prospective payment system (PPS) rate for FQHCs to come into compliance with the Social Security Act (the Act). Beginning in 2001, the Act required states to establish PPS rates based on cost report data from 1999 and 2000, however, MA's state plan has not included a compliant PPS methodology consistent with the statute and the state has relied exclusively on an alternative payment methodology to pay providers. Based on the state's movement toward value-based purchasing, providers requested the state to establish provider-specific PPS rates. In reviewing the 1999 and 2000 cost report data, the state determined that some of the provide-specific data included errors that could not be remedied due to the age of the data. After significant collaboration with the provider community, the state is requesting to use a reasonable cost determination to account for outlier data. The reasonable cost policy, which is incorporated into Medicaid statute by reference to Medicare statute, would bind outlier providers within low and high end percentiles of all providers' PPS rates to bring the outliers in line with the range of provider PPS rates. CMCS has collaborated with OGC and CM colleagues to review the relevant statutory and implementing guidance and believe the state's proposal is supportable. Although the SPA is pending off of the federal review clock, the state has indicated urgency in receiving approval as the proposal is crucial to implementing the value-base purchasing initiative.

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

Sent: Thursday, April 13, 2023 11:18 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>

Cc: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: OA Issues Item - MA FQHC Write-up

Hi Jeremy,

Lela is also pinging on the OA blurb (example below)

Missouri Deferral – Federal Reimbursement Allowance (FRA) Tax

CMCS will brief and seek concurrence from the Administrator on a recommended Missouri deferral related to the state's FRA tax. As part of the action plan to enforce compliance with non-federal share financing requirements in Missouri (previously briefed on May 26, 2022), CMCS conducted a focused review of Missouri's hospital tax, known as the 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, CMCS recommends issuing a deferral in the amount of approximately \$236,000,000 to temporarily hold 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.

- Decision deadline: March 20, 2023
- Briefer: Rory Howe, Director, Financial Management Group
- IRA-Related Policies: N/A

Beverly

From: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>

Sent: Thursday, April 13, 2023 11:16 AM

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

Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: OA Issues Item - MA FQHC Write-up

Please see the attached. Thanks.

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

Sent: Thursday, April 13, 2023 9:51 AM

To: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>

Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: OA Issues Item - MA FQHC Write-up

I just talked with OCD. Instead of a full paper for OA Issues next week, would it be reasonable to provide a half-page to one-page of bullets on the issue by tomorrow?

Massachusetts Request to Establish a Prospective Payment System Rate for Federally Qualified Health Centers

Issue:

- The Social Security Act (the Act) required states to establish prospective payment system (PPS) rates for Federally Qualified Health Center (FQHC) providers based on provider-specific cost data from 1999 and 2000.
- The Act also allows states to set alternative payment methodologies (APMs) for FQHCs as long as the FQHCs agree to accept the APMs and the APMs pay providers at least the amount they would receive under the PPS rates.
- Massachusetts' Medicaid state plan does not include a PPS rate for each FQHC provider that is consistent with the Act and the state has historically paid FQHCs using only an APM.
- Recently, the state proposed to use 1115 demonstration authority to initiate value-based payments (VBP) that would affect FQHC providers. Based on this initiative, FQHCs requested that the state amend the state plan and set a PPS rate methodology to serve as the floor for provider payments and ensure that they would be paid at least the PPS amount under the VBP initiative.
- Consistent with this request, MA submitted state plan amendment (SPA) 22-0002 to establish a PPS rate. While the PPS method proposed under SPA 22-0002 would rely on the cost report data submitted by FQHCs in 1999 and 2000, the state determined that some of the cost report data appears inaccurate and contains errors which could not be corrected due to the age of the data.
- As a result, the state engaged each FQHC and the Massachusetts League of Community Health Centers to collectively develop a PPS methodology that would more clearly define and document individualized PPS rates for each FQHC.
- After consulting with the provider community, MA proposed to bound the 1999 and 2000 cost data at the 50th and 75th percentiles of all providers' reported cost. This means that any provider with reported cost below the 50th percentile would have a PPS rate set higher than their reported cost would allow and any provider with reported cost above the 75th percentile would have a PPS rate set lower than their reported cost would allow.
- Massachusetts believes this methodology is consistent with the Medicaid statute which references sections of Medicare statute defining reasonable cost.
- After review of the relevant Medicare statute, and implementing regulations and guidance, and in consultation with OGC and the Center for Medicare, CMCS believes there is a sufficient basis to approve the proposed SPA. This recommendation is bolstered by the work MA conducted with their provider community to develop the proposal.
- However, there is some legal risk associated with the proposal since the state did not historically have an approved PPS method within their State plan and the proposed SPA would pay outlier providers above the 75th percentile below their reported cost.
- The state has indicated urgency associated with this request and may elevate the request to Congressional delegations if CMS does not approve the proposal soon.

Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/14/2023 4:59:45 PM
To: adams, lia (CMS/CMCS) (b)(6)
(b)(6)
CC: Boston, Beverly (CMS/CMCS) (b)(6); Ferguson, Dorothy
(CMS/CMCS) (b)(6); Curry, Celestine
(CMS/CMCS) (b)(6); Maccarroll, Amber
(CMS/CMCS) (b)(6); Silanskis, Jeremy
(CMS/CMCS) (b)(6)
Subject: RE: RE: OGD Review Requested: March 22 - OA Issues

Hi, Lia. I finished my edits to the paper on SharePoint and we should be good to go. Would you mind taking one last look through the paper for any errors before moving it forward? Thanks to everyone who worked on this. I know it was required a very quick turnaround!

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Sent: Monday, March 13, 2023 11:19 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>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

Thanks, Rory!

+ Dorothy/Celestine – here is what moved forward:

1. Missouri Deferral – Federal Reimbursement Allowance (FRA) Tax

CMCS will brief and seek concurrence from the Administrator on a recommended Missouri deferral related to the state's FRA tax. As part of the action plan to enforce compliance with non-federal share financing requirements in Missouri (previously briefed on May 26, 2022), CMCS conducted a focused review of Missouri's hospital tax, known as the 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, CMCS recommends issuing a deferral in the amount of approximately \$236,000,000 to temporarily hold 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.

- Decision deadline: March 20, 2023
- Briefer: Rory Howe, Director, Financial Management Group
- IRA-Related Policies: N/A

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Monday, March 13, 2023 11:15 AM
To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

The blurb is good. Thanks all!

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Sent: Monday, March 13, 2023 7:00 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>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: OGD Review Requested: March 22 - OA Issues

Good morning Rory,

Please let me know when the March 22 - OA Issues blurb for the Missouri deferral is ready to be moved forward. It is **due NLT 11:45 AM today**.

Thank you Amber for drafting it!

Thanks,
Lia

Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/14/2023 5:09:30 PM
To: adams, lia (CMS/CMCS) (b)(6)
(b)(6)
Subject: RE: RE: OGD Review Requested: March 22 - OA Issues

Thanks again, Lia.

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Sent: Tuesday, March 14, 2023 1:04 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

Yes, will do. I will email once I move forward.

~ lia

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, March 14, 2023 1:00 PM
To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

Hi, Lia. I finished my edits to the paper on SharePoint and we should be good to go. Would you mind taking one last look through the paper for any errors before moving it forward? Thanks to everyone who worked on this. I know it was required a very quick turnaround!

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Sent: Monday, March 13, 2023 11:19 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>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

Thanks, Rory!

+ Dorothy/Celestine – here is what moved forward:

1. Missouri Deferral – Federal Reimbursement Allowance (FRA) Tax

CMCS will brief and seek concurrence from the Administrator on a recommended Missouri deferral related to the state's FRA tax. As part of the action plan to enforce compliance with non-federal share financing requirements in Missouri (previously briefed on May 26, 2022), CMCS conducted a focused review of Missouri's hospital tax, known as the 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, CMCS recommends issuing a deferral in the amount of approximately \$236,000,000 to temporarily hold 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.

- Decision deadline: March 20, 2023
- Briefer: Rory Howe, Director, Financial Management Group
- IRA-Related Policies: N/A

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

Sent: Monday, March 13, 2023 11:15 AM

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

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

Subject: RE: OGD Review Requested: March 22 - OA Issues

The blurb is good. Thanks all!

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Sent: Monday, March 13, 2023 7:00 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>

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

Subject: OGD Review Requested: March 22 - OA Issues

Good morning Rory,

Please let me know when the March 22 - OA Issues blurb for the Missouri deferral is ready to be moved forward. It is **due NLT 11:45 AM today**.

Thank you Amber for drafting it!

Thanks,
Lia

Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/15/2023 5:50:28 PM
To: adams, lia (CMS/CMCS) (b)(6)
(b)(6)
CC: Boston, Beverly (CMS/CMCS) (b)(6); Ferguson, Dorothy
(CMS/CMCS) (b)(6); Curry, Celestine
(CMS/CMCS) (b)(6); Maccarroll, Amber
(CMS/CMCS) (b)(6); Silanskis, Jeremy
(CMS/CMCS) (b)(6)
Subject: RE: RE: OGD Review Requested: March 22 - OA Issues

Thanks, Lia. Would you mind sharing the SharePoint link?

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Sent: Wednesday, March 15, 2023 1:46 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

Anne Marie has reviewed the Missouri deferral issues brief.

~ lia

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, March 14, 2023 1:47 PM
To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

Thanks for the catch, Lia. I think it is good if they are consistent. I just added a quick note to the recommendation. We are good whenever you are.

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Sent: Tuesday, March 14, 2023 1:34 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS)

<Jeremy.Silanskis@cms.hhs.gov>

Subject: RE: OGD Review Requested: March 22 - OA Issues

Quick question – in the background/context there is this sentence: “CMCS also recommends pursuing deferrals for additional quarters and converting the deferral to disallowances (see timeline in Attachment A) until the state demonstrates its FRA tax meets federal requirements. CMCS expects the state to continue to challenge any possible CMS disallowance action to the HHS Departmental Appeals Board.”

In the recommendation it only mentions deferrals and not a disallowance. Do we want to add that in to be consistent or should I leave as is?

Recommendation: CMCS recommends issuing a deferral in the amount of \$236,629,533 FFP for the CMS-64 quarter ending December, 31 2022 by the 60th day, March 31, 2023. CMCS also recommends pursuing deferrals for additional quarters until the state demonstrates its FRA tax meets federal requirements.

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

Sent: Tuesday, March 14, 2023 1:00 PM

To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>

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Sent: Monday, March 13, 2023 11:19 AM

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Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>

Subject: RE: OGD Review Requested: March 22 - OA Issues

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+ Dorothy/Celestine – here is what moved forward:

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- Decision deadline: March 20, 2023
- Briefer: Rory Howe, Director, Financial Management Group
- IRA-Related Policies: N/A

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

Sent: Monday, March 13, 2023 11:15 AM

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

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

Subject: RE: OGD Review Requested: March 22 - OA Issues

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Sent: Monday, March 13, 2023 7:00 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>

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

Subject: OGD Review Requested: March 22 - OA Issues

Good morning Rory,

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Thank you Amber for drafting it!

Thanks,
Lia

Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/14/2023 5:47:02 PM
To: adams, lia (CMS/CMCS) (b)(6)
(b)(6)
CC: Boston, Beverly (CMS/CMCS) (b)(6)
(b)(6) Ferguson, Dorothy
(CMS/CMCS) (b)(6)
(b)(6) Curry, Celestine
(CMS/CMCS) (b)(6)
(b)(6) Maccarroll, Amber
(CMS/CMCS) (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS) (b)(6)
Subject: RE: RE: OGD Review Requested: March 22 - OA Issues

Thanks for the catch, Lia. I think it is good if they are consistent. I just added a quick note to the recommendation. We are good whenever you are.

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Sent: Tuesday, March 14, 2023 1:34 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

Quick question – in the background/context there is this sentence: “CMCS also recommends pursuing deferrals for additional quarters and converting the deferral to disallowances (see timeline in Attachment A) until the state demonstrates its FRA tax meets federal requirements. CMCS expects the state to continue to challenge any possible CMS disallowance action to the HHS Departmental Appeals Board.”

In the recommendation it only mentions deferrals and not a disallowance. Do we want to add that in to be consistent or should I leave as is?

Recommendation: CMCS recommends issuing a deferral in the amount of \$236,629,533 FFP for the CMS-64 quarter ending December, 31 2022 by the 60th day, March 31, 2023. CMCS also recommends pursuing deferrals for additional quarters until the state demonstrates its FRA tax meets federal requirements.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, March 14, 2023 1:00 PM
To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS)

<Jeremy.Silanskis@cms.hhs.gov>

Subject: RE: OGD Review Requested: March 22 - OA Issues

Hi, Lia. I finished my edits to the paper on SharePoint and we should be good to go. Would you mind taking one last look through the paper for any errors before moving it forward? Thanks to everyone who worked on this. I know it was required a very quick turnaround!

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Sent: Monday, March 13, 2023 11:19 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>

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

<Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>

Subject: RE: OGD Review Requested: March 22 - OA Issues

Thanks, Rory!

+ Dorothy/Celestine – here is what moved forward:

1. Missouri Deferral – Federal Reimbursement Allowance (FRA) Tax

CMCS will brief and seek concurrence from the Administrator on a recommended Missouri deferral related to the state's FRA tax. As part of the action plan to enforce compliance with non-federal share financing requirements in Missouri (previously briefed on May 26, 2022), CMCS conducted a focused review of Missouri's hospital tax, known as the 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, CMCS recommends issuing a deferral in the amount of approximately \$236,000,000 to temporarily hold 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.

- Decision deadline: March 20, 2023
- Briefer: Rory Howe, Director, Financial Management Group
- IRA-Related Policies: N/A

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

Sent: Monday, March 13, 2023 11:15 AM

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

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

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

Subject: RE: OGD Review Requested: March 22 - OA Issues

The blurb is good. Thanks all!

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Sent: Monday, March 13, 2023 7:00 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>

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

Subject: OGD Review Requested: March 22 - OA Issues

Good morning Rory,

Please let me know when the March 22 - OA Issues blurb for the Missouri deferral is ready to be moved forward. It is **due NLT 11:45 AM today**.

Thank you Amber for drafting it!

Thanks,
Lia

Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/16/2023 2:45:25 PM
To: adams, lia (CMS/CMCS) (b)(6)
(b)(6) Maccarroll, Amber
(CMS/CMCS) (b)(6)
(b)(6)
CC: Boston, Beverly (CMS/CMCS) (b)(6)
(b)(6) Ferguson, Dorothy
(CMS/CMCS) (b)(6)
(b)(6) Curry, Celestine
(CMS/CMCS) (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS) (b)(6)
(b)(6)
Subject: RE: RE: OGD Review Requested: March 22 - OA Issues

Hi Lia. The paper is good to go. Thanks!

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Sent: Wednesday, March 15, 2023 1:52 PM
To: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

Rewrites are due tomorrow, 3/16 NLT 12 PM ET. Please make any edits/comments in the SharePoint link below.

[LINK](#)

~ lia

From: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Sent: Wednesday, March 15, 2023 1:47 PM
To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

Thanks Lia – when are our updates due?

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Sent: Wednesday, March 15, 2023 1:46 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>

Subject: RE: OGD Review Requested: March 22 - OA Issues

Anne Marie has reviewed the Missouri deferral issues brief.

~ lia

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

Sent: Tuesday, March 14, 2023 1:47 PM

To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>

Subject: RE: OGD Review Requested: March 22 - OA Issues

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Subject: RE: OGD Review Requested: March 22 - OA Issues

Quick question – in the background/context there is this sentence: “CMCS also recommends pursuing deferrals for additional quarters and converting the deferral to disallowances (see timeline in Attachment A) until the state demonstrates its FRA tax meets federal requirements. CMCS expects the state to continue to challenge any possible CMS disallowance action to the HHS Departmental Appeals Board.”

In the recommendation it only mentions deferrals and not a disallowance. Do we want to add that in to be consistent or should I leave as is?

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Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS)

<Jeremy.Silanskis@cms.hhs.gov>

Subject: RE: OGD Review Requested: March 22 - OA Issues

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

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

<Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>

Subject: RE: OGD Review Requested: March 22 - OA Issues

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+ Dorothy/Celestine – here is what moved forward:

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- Decision deadline: March 20, 2023
- Briefer: Rory Howe, Director, Financial Management Group
- IRA-Related Policies: N/A

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

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

Subject: RE: OGD Review Requested: March 22 - OA Issues

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From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Sent: Monday, March 13, 2023 7:00 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>

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

Subject: OGD Review Requested: March 22 - OA Issues

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Please let me know when the March 22 - OA Issues blurb for the Missouri deferral is ready to be moved forward. It is **due NLT 11:45 AM today**.

Thank you Amber for drafting it!

Thanks,
Lia

Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/28/2023 12:02:49 PM
To: Katch (she/her), Hannah (CMS/OA) (b)(6)
(b)(6) Tsai, Daniel
(CMS/CMCS) (b)(6)
(b)(6); Mannchen, Garrett
(HHS/OGC) (b)(6)
(b)(6); Rodriguez, Paul
(HHS/OGC) (b)(6)
(b)(6) Hoffman, Janice
(HHS/OGC) (b)(6)
(b)(6) Vogel, Jeremy (HHS/OGC)
(b)(6)
(b)(6); Costello, Anne Marie
(CMS/CMCS) (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS) (b)(6)
(b)(6); Briskin, Perrie
(CMS/CMCS) (b)(6)
(b)(6)
CC: Vitolo, Sara (CMS/CMCS) (b)(6)
(b)(6) Hebert, Krista
(CMS/CMCS) (b)(6)
(b)(6)
Subject: RE: RE: MO follow up

This looks good. Two minor suggested in red below.

From: Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 6:59 AM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>; Mannchen, Garrett (HHS/OGC) <Garrett.Mannchen@hhs.gov>; Rodriguez, Paul (HHS/OGC) <PaulR.Rodriguez@hhs.gov>; Hoffman, Janice (HHS/OGC) <Janice.Hoffman@HHS.GOV>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>
Cc: Vitolo, Sara (CMS/CMCS) <Sara.Vitolo@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>
Subject: RE: MO follow up

See if this works.

(b)(5)

believe
(see
to CMS
the

(b)(5)

From: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>

Sent: Monday, March 27, 2023 8:30 PM

To: Mannchen, Garrett (HHS/OGC) <Garrett.Mannchen@hhs.gov>; Rodriguez, Paul (HHS/OGC) <PaulR.Rodriguez@hhs.gov>; Hoffman, Janice (HHS/OGC) <Janice.Hoffman@HHS.GOV>; Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>

Cc: Vitolo, Sara (CMS/CMCS) <Sara.Vitolo@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>

Subject: MO follow up

Atty client / privileged and confidential

(b)(5)

(b)(5)

Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/28/2023 6:30:39 PM
To: Hebert, Krista (CMS/CMCS) (b)(6)
(b)(6); Boston, Beverly
(CMS/CMCS) (b)(6)
(b)(6)
CC: Briskin, Perrie (CMS/CMCS) (b)(6)
(b)(6)
Subject: RE: RE: URGENT!!! QUESTION FROM OA!!!! : OC/MRG ACTION REQUIRED BY 2PM today- Cabinet Secretary Weekly Report - CMS Submission

Hi, Krista. Dan and FMG have been talking with OA/OGC/OS over the past couple days. My understanding is that CMS, pending confirmation with OS, is no longer planning to issue a deferral to Missouri on March 31st (or taking any formal action in the next couple of months).

From: Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 2:27 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>
Subject: FW: URGENT!!! QUESTION FROM OA!!!! : OC/MRG ACTION REQUIRED BY 2PM today- Cabinet Secretary Weekly Report - CMS Submission
Importance: High

Hi Rory and Beverly -

I am having trouble tracking the timelines here given how fast things are moving with MO. Can you please help provide edits on the below bullet so that it reflects the latest?

- **Missouri Deferral Letter:** On March 31st, CMS will release a Medicaid deferral letter to Missouri regarding longstanding concerns about federal Medicaid financing requirements, specifically FRA hospital taxes. This may represent a hold harmless arrangement, which is prohibited by statute and regulations. There will be a reactive statement for this item.

From: Bellios, Toulia (CMS/OSPR) <Toulia.Bellios@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 2:24 PM
To: Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Dorsey, Jennifer (CMS/CMCS) <jennifer.dorsey@cms.hhs.gov>; Janu, Shanna (CMS/CMCS) <Shanna.Janu@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>
Subject: URGENT!!! QUESTION FROM OA!!!! : OC/MRG ACTION REQUIRED BY 2PM today- Cabinet Secretary Weekly Report - CMS Submission
Importance: High

Erin had this comment re: this bullet: The timing and type of letter has now changed. Please go back to CMCS (Perrie) and Hannah to get the latest put in here

- **Missouri Deferral Letter:** On March 31st, CMS will release a Medicaid deferral letter to Missouri regarding longstanding concerns about federal Medicaid financing requirements, specifically FRA hospital taxes. This may represent a hold harmless arrangement, which is prohibited by statute and regulations. There will be a reactive statement for this item.

Thanks, Toula

Toula Bellios
410 786 5501
7500 Security Blvd
Baltimore, MD 21244
e-mail: toula.bellios@cms.hhs.gov

From: Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>
Sent: Monday, March 27, 2023 10:40 PM
To: Bellios, Toula (CMS/OSPR) <Toula.Bellios@cms.hhs.gov>; Dorsey, Jennifer (CMS/CMCS) <jennifer.dorsey@cms.hhs.gov>; Janu, Shanna (CMS/CMCS) <Shanna.Janu@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>
Subject: RE: OC/MRG ACTION REQUIRED BY 2PM today- Cabinet Secretary Weekly Report - CMS Submission

Hi Toula – Please remove this item. The data is moving (and we think it will be next week, but we are not 100% sure, so let's remove for now).

Thank you!

Best,
Perrie

Please remove:

- **State Medicaid Director Letter on Inmate Transitions Guidance to States:** On/about March 30th, CMS will issue a State Medicaid Director Letter (SMDL) to states that will provide them with information on a new Medicaid section 1115 demonstration for short term coverage of Medicaid services to individuals transitioning out of incarceration. This guidance is being issued as required by section 5032 of the SUPPORT Act.

From: Bellios, Toula (CMS/OSPR) <Toula.Bellios@cms.hhs.gov>
Sent: Monday, March 27, 2023 2:33 PM
To: Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Dorsey, Jennifer (CMS/CMCS) <jennifer.dorsey@cms.hhs.gov>; Janu, Shanna (CMS/CMCS) <Shanna.Janu@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>
Subject: FW: OC/MRG ACTION REQUIRED BY 2PM today- Cabinet Secretary Weekly Report - CMS Submission

Perrie and team, please review attached.

Thanks, Toula

Toula Bellios
410 786 5501
7500 Security Blvd
Baltimore, MD 21244
e-mail: toula.bellios@cms.hhs.gov

From: Sokol, Lisa (CMS/OC) <Lisa.Sokol@cms.hhs.gov>
Sent: Monday, March 27, 2023 2:30 PM
To: Bellios, Toula (CMS/OSPR) <Toula.Bellios@cms.hhs.gov>
Cc: Howden, Catherine (CMS/OC) <Catherine.Howden@cms.hhs.gov>; Shorter, Kimberly (CMS/OC) <Kimberly.Shorter@cms.hhs.gov>
Subject: OC/MRG ACTION REQUIRED BY 2PM today- Cabinet Secretary Weekly Report - CMS Submission

Toula, attached is this week's cabinet report.

Please let me know if you have questions.

Tks,
LSokol

From: Bellios, Toula (CMS/OSPR) <Toula.Bellios@cms.hhs.gov>
Sent: Monday, March 27, 2023 8:43 AM
To: Hitchcock, Angela (CMS/OA) <Angela.Hitchcock@cms.hhs.gov>; Keene, Danyail (CMS/OL) <Danyail.Keene@cms.hhs.gov>; Cantwell, Kathleen (CMS/OSORA) <Kathleen.Cantwell@cms.hhs.gov>; Trucil, Daniel (CMS/OC) <Daniel.Trucil@cms.hhs.gov>; Sokol, Lisa (CMS/OC) <Lisa.Sokol@cms.hhs.gov>; Miner, Imani (CMS/OL) <Imani.Miner@cms.hhs.gov>
Cc: Miller, Ruth-Sam (CMS/OSORA) <Ruth.Miller@cms.hhs.gov>; Howden, Catherine (CMS/OC) <Catherine.Howden@cms.hhs.gov>; Toomey, Mary (CMS/OC) <Mimi.Toomey@cms.hhs.gov>; Thomas, Jasmine (CMS/OC) <Jasmine.Thomas1@cms.hhs.gov>; Boulanger, Jennifer (CMS/OL) <Jennifer.Boulanger@cms.hhs.gov>; Kovach (she/her), Diane (CMS/CM) <Diane.Kovach@cms.hhs.gov>; Mack, Rosa (CMS/EPRO) <Rosa.Mack@cms.hhs.gov>; Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>; Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Harris, Will (CMS/OA) <William.Harris@cms.hhs.gov>; Clybourn, Olen D. (CMS/OSORA) <Olen.Clybourn@cms.hhs.gov>; Aldana, Karen (CMS/OC) <Karen.Aldana@cms.hhs.gov>
Subject: ACTION REQUIRED BY 2PM today- Cabinet Secretary Weekly Report - CMS Submission
Importance: High

Good morning - Just a friendly reminder, please submit by 2PM, TODAY, MONDAY, MARCH 27th. Last week's report (3/21/23) is attached for your reference.

Let me know if you have any questions.

Thanks so much!

Thanks, Toula

Toula Bellios
410 786 5501

e-mail: toula.bellios@cms.hhs.gov

Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 1/12/2023 8:34:04 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) (b)(6)
(b)(6) Boston, Beverly
(CMS/CMCS) (b)(6)
(b)(6) Fan, Kristin (CMS/CMCS)
(b)(6)
(b)(6) Arnold, Charlie
(CMS/CMCS) (b)(6)
(b)(6) Clark, Jennifer
(CMS/CMCS) (b)(6)
(b)(6) Goldstein, Stuart
(CMS/CMCS) (b)(6)
(b)(6) Cuno, Richard
(CMS/CMCS) (b)(6)
CC: Maccarroll, Amber (CMS/CMCS) (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS) (b)(6)
(b)(6) adams, lia (CMS/CMCS)
(b)(6)
Subject: RE: 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 we can't or shouldn't focus on anything other than the fact that hold harmless arrangements are against federal Medicaid law. They are, of course, but that is not the only motivating factor in issuing the CIB. They say we should cut any reference to the fact that halting these redistribution agreements could help providers with high Medicaid volume and that these financing mechanisms serve to take the focus away from quality health outcomes and towards who can finance the most money to minimize state expenditures while maximizing federal outlays. I think we should push back and say that issuing this CIB will be a positive for the transparency and improve the operation of the Medicaid program. However, I wanted to gauge the temperature of others to see how we wanted to approach this.

Best,

Jonathan

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Social Science Research Analyst
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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

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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>; 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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.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) <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 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

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Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 4/13/2023 6:22:32 PM
To: Boston, Beverly (CMS/CMCS) (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS) (b)(6)
(b)(6) Maccarroll, Amber
(CMS/CMCS) (b)(6)
CC: adams, lia (CMS/CMCS) (b)(6)
(b)(6)
Subject: RE: RE: OSORA Pinging Lela: OA Issues Item - MA FQHC Write-up

Thanks, Beverly and Lia!

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Thursday, April 13, 2023 2:22 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>
Cc: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: OSORA Pinging Lela: OA Issues Item - MA FQHC Write-up

Lia I put you on the string with Lela. Can you move the papers?

Thanks

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Thursday, April 13, 2023 2:20 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Cc: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: OSORA Pinging Lela: OA Issues Item - MA FQHC Write-up

Yes. They are good to go. Good on the briefers as well. Thanks, Jeremy!

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Thursday, April 13, 2023 2:18 PM
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>
Cc: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: OSORA Pinging Lela: OA Issues Item - MA FQHC Write-up

Hello,
Can the blurb move forward? Also, please confirm briefer below

Massachusetts State Plan Amendment 22-0002 – Federally Qualified Health Center (FQHC)

CMCS will brief and seek concurrence from the Administrator on a pending Massachusetts state plan amendment (SPA 22-0002). The SPA proposes to establish a prospective payment system (PPS) rate for FQHCs to come into compliance with the Social Security Act (the Act). Beginning in 2001, the Act required states to establish PPS rates based on cost report data from 1999 and 2000, however, MA's state plan has not included a compliant PPS methodology consistent with the statute and the state has relied exclusively on an alternative payment methodology to pay providers. Based on the state's movement toward value-based purchasing, providers requested the state to establish provider-specific PPS rates. In reviewing the 1999 and 2000 cost report data, the state determined that some of the provide-specific data included errors that could not be remedied due to the age of the data. After significant collaboration with the provider community, the state is requesting to use a reasonable cost determination to account for outlier data. The reasonable cost policy, which is incorporated into Medicaid statute by reference to Medicare statute, would bind outlier providers within low and high end percentiles of all providers' PPS rates to bring the outliers in line with the range of provider PPS rates. CMCS has collaborated with OGC and CM colleagues to review the relevant statutory and implementing guidance and believe the state's proposal is supportable. Although the SPA is pending off of the federal review clock, the state has indicated urgency in receiving approval as the proposal is crucial to implementing the value-base purchasing initiative.

- Decision deadline: April, 23, 2023
- Briefer: Rory Howe, Director, Financial Management Group, Jeremy Silanskis, Deputy Director, Financial Management Group
- IRA-Related Policies: N/A

Beverly

From: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>

Sent: Thursday, April 13, 2023 11:48 AM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>

Cc: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Subject: RE: OA Issues Item - MA FQHC Write-up

Massachusetts State Plan Amendment 22-0002 – Federally Qualified Health Center (FQHC)

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From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Thursday, April 13, 2023 11:18 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>
Cc: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: OA Issues Item - MA FQHC Write-up

Hi Jeremy,

Lela is also pinging on the OA blurb (example below)

Missouri Deferral – Federal Reimbursement Allowance (FRA) Tax

CMCS will brief and seek concurrence from the Administrator on a recommended Missouri deferral related to the state's FRA tax. As part of the action plan to enforce compliance with non-federal share financing requirements in Missouri (previously briefed on May 26, 2022), CMCS conducted a focused review of Missouri's hospital tax, known as the 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, CMCS recommends issuing a deferral in the amount of approximately \$236,000,000 to temporarily hold 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.

- Decision deadline: March 20, 2023
- Briefer: Rory Howe, Director, Financial Management Group
- IRA-Related Policies: N/A

Beverly

From: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Sent: Thursday, April 13, 2023 11:16 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: OA Issues Item - MA FQHC Write-up

Please see the attached. Thanks.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Thursday, April 13, 2023 9:51 AM
To: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: OA Issues Item - MA FQHC Write-up

I just talked with OCD. Instead of a full paper for OA Issues next week, would it be reasonable to provide a half-page to one-page of bullets on the issue by tomorrow?

Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 4/13/2023 6:19:35 PM
To: Boston, Beverly (CMS/CMCS) (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS) (b)(6)
(b)(6) Maccarroll, Amber
(CMS/CMCS) (b)(6)
CC: adams, lia (CMS/CMCS) (b)(6)
(b)(6)
Subject: RE: RE: OSORA Pinging Lela: OA Issues Item - MA FQHC Write-up

Yes. They are good to go. Good on the briefers as well. Thanks, Jeremy!

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Sent: Thursday, April 13, 2023 2:18 PM
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>
Cc: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: OSORA Pinging Lela: OA Issues Item - MA FQHC Write-up

Hello,
Can the blurb move forward? Also, please confirm briefer below

Massachusetts State Plan Amendment 22-0002 – Federally Qualified Health Center (FQHC)

CMCS will brief and seek concurrence from the Administrator on a pending Massachusetts state plan amendment (SPA 22-0002). The SPA proposes to establish a prospective payment system (PPS) rate for FQHCs to come into compliance with the Social Security Act (the Act). Beginning in 2001, the Act required states to establish PPS rates based on cost report data from 1999 and 2000, however, MA's state plan has not included a compliant PPS methodology consistent with the statute and the state has relied exclusively on an alternative payment methodology to pay providers. Based on the state's movement toward value-based purchasing, providers requested the state to establish provider-specific PPS rates. In reviewing the 1999 and 2000 cost report data, the state determined that some of the provide-specific data included errors that could not be remedied due to the age of the data. After significant collaboration with the provider community, the state is requesting to use a reasonable cost determination to account for outlier data. The reasonable cost policy, which is incorporated into Medicaid statute by reference to Medicare statute, would bind outlier providers within low and high end percentiles of all providers' PPS rates to bring the outliers in line with the range of provider PPS rates. CMCS has collaborated with OGC and CM colleagues to review the relevant statutory and implementing guidance and believe the state's proposal is supportable. Although the SPA is pending off of the federal review clock, the state has indicated urgency in receiving approval as the proposal is crucial to implementing the value-base purchasing initiative.

- Decision deadline: April, 23, 2023
- Briefer: Rory Howe, Director, Financial Management Group, Jeremy Silanskis, Deputy Director, Financial Management Group
- IRA-Related Policies: N/A

Beverly

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Sent: Thursday, April 13, 2023 11:48 AM
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Cc: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: OA Issues Item - MA FQHC Write-up

Hi Jeremy,

Lela is also pinged on the OA blurb (example below)

Missouri Deferral – Federal Reimbursement Allowance (FRA) Tax

CMCS will brief and seek concurrence from the Administrator on a recommended Missouri deferral related to the state's FRA tax. As part of the action plan to enforce compliance with non-federal share financing requirements in Missouri (previously briefed on May 26, 2022), CMCS conducted a focused review of Missouri's hospital tax, known as the 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, CMCS recommends issuing a deferral in the amount of approximately \$236,000,000 to temporarily hold 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.

- Decision deadline: March 20, 2023
- Briefer: Rory Howe, Director, Financial Management Group
- IRA-Related Policies: N/A

Beverly

From: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Sent: Thursday, April 13, 2023 11:16 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: OA Issues Item - MA FQHC Write-up

Please see the attached. Thanks.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Thursday, April 13, 2023 9:51 AM
To: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: OA Issues Item - MA FQHC Write-up

I just talked with OCD. Instead of a full paper for OA Issues next week, would it be reasonable to provide a half-page to one-page of bullets on the issue by tomorrow?

Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 4/17/2023 4:13:28 PM
To: Howe, Rory (CMS/CMCS) (Rory.Howe@cms.hhs.gov) [Rory.Howe@cms.hhs.gov]
Subject: TX TIMELINE FW: Missouri MCO Rates - Hold Harmless Concern Follow-up

From: Deboy, Alissa M. (CMS/CMCS) <alissa.deboy1@cms.hhs.gov>
Sent: Tuesday, August 20, 2019 2:02 PM
To: Fan, Kristin A. (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Smith, Carrie A. (CMS/CMCS) <Carrie.Smith@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE: Missouri MCO Rates - Hold Harmless Concern Follow-up

Any updates on this? We want to give Calder a status tomorrow at our clearance. Thanks!

Alissa Mooney DeBoy
Acting Director
Disabled and Elderly Health Programs Group
Centers for Medicare and Medicaid Services
7500 Security Blvd
Mailstop S2-14-26
Baltimore, MD 21244
(410) 786-1699
Email: Alissa.deboy1@cms.hhs.gov

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From: Fan, Kristin A. (CMS/CMCS)
Sent: Saturday, August 17, 2019 8:17 AM
To: Deboy, Alissa M. (CMS/CMCS) <alissa.deboy1@cms.hhs.gov>; Smith, Carrie A. (CMS/CMCS) <Carrie.Smith@cms.hhs.gov>
Subject: Fwd: Missouri MCO Rates - Hold Harmless Concern Follow-up

Sent from my iPhone

Begin forwarded message:

From: "Howe, Rory (CMS/CMCS)" <Rory.Howe@cms.hhs.gov>
Date: August 15, 2019 at 1:56:42 PM EDT
To: "Vogel, Jeremy (HHS/OGC)" <Jeremy.Vogel@hhs.gov>
Cc: "Kosin, Donald (HHS/OGC)" <Donald.Kosin@HHS.GOV>, "Fan, Kristin A. (CMS/CMCS)" <Kristin.Fan@cms.hhs.gov>, "Freeze, Janet G. (CMS/CMCS)" <Janet.Freeze@cms.hhs.gov>, "Lane, Robert (CMS/CMCS)" <Robert.Lane@cms.hhs.gov>, "Burke, Sherry Lynn (HHS/OGC)"

<SherryLynn.Burke@hhs.gov>

Subject: Missouri MCO Rates - Hold Harmless Concern Follow-up

Hi Jeremy,

We recently received a letter from Missouri articulating its position that its hospital tax program, including associated MCO payments and pooling/redistribution, does not constitute a hold harmless arrangement. Calder requested that FMG ask OGC to review and to provide feedback on the letter. Also, Calder requested that OGC estimate the level of risk in defending a position that a hold harmless arrangement exists if the state were to challenge CMS through an administrative appeal or in federal court. We've attached the letter and some of the previous related background materials.

Although Calder did not request a specific turnaround time, he asked for feedback as soon as possible. Please let us know if you have any questions. Thanks for all of your assistance.

Thanks again,
Rory

Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 4/24/2023 5:42:28 PM
To: Robert Nelb [robert.nelb@macpac.gov]
CC: Wiley, Evelyn (CMS/CMCS) (b)(6)
(b)(6)
Subject: RE: RE: Touching base on financing and supplemental payments?

Hi Rob,

Apologies for the delayed response. It is good to hear from you and I hope you are doing well, too. We are happy to talk. I've copied Evelyn Wiley to help with scheduling on our end. Also, FYI, I will loop in a few others from FMG to make sure you are getting all the information that you need. Looking forward to talking soon.

Rory

From: Robert Nelb <robert.nelb@macpac.gov>
Sent: Monday, April 24, 2023 1:12 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: Re: Touching base on financing and supplemental payments?

Hi Rory -

I hope you had a good weekend. Just wanted to follow up on this request. Feel free to direct me to others on your team if needed.

Thanks,

~ Rob

On Mon, Apr 17, 2023 at 8:54 AM Robert Nelb <robert.nelb@macpac.gov> wrote:

Rory -

I hope you're doing well. At MACPAC, we're starting some new work on oversight of non-federal share financing, and our new ED, Kate Massey, mentioned that Dan suggested we reach out to you and your team to learn more about some of the current issues you're working on, including the recent hold harmless issues with local provider taxes.

Also, I just wanted to give you a heads up that we're continuing to run into issues accessing the new provider-level supplemental payments data, since we don't seem to have access to it in MACFin. We're open to other ways to get this data if the system isn't working. For example, we just worked with DEHPG to have them upload all of the directed payment pre-prints to our secure shared file site on Box.com.

Happy to set up time to chat about both of these issues whenever you're available. I recognize that different teams might be involved in each issue, so we can set up separate calls if that's easier. Also, feel free to give me a call at (b)(6) if it's easier to chat on the phone.

~ Rob

----- Forwarded message -----

From: **Robert Nelb** <robert.nelb@macpac.gov>

Date: Tue, Apr 11, 2023 at 5:02 PM

Subject: Re: Request: CMS MACFin data

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

Cc: Kessler, Christopher (CMS/CMCS) <Christopher.Kessler@cms.hhs.gov>, Aaron Pervin <aaron.pervin@macpac.gov>, Barraza, Leticia (CMS/CMCS) <Leticia.Barraza@cms.hhs.gov>, Chris Park <chris.park@macpac.gov>, Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>, Kate Massey <kate.massey@macpac.gov>, Sam-Louie, Henrietta (CMS/CMCS) <Henrietta.Sam-Louie@cms.hhs.gov>

Thanks all for your continued help on this issue.

At this point, we are primarily interested in reviewing the hospital-specific data for inpatient and outpatient hospital supplemental payments that has been submitted under the new reporting requirements of the Consolidated Appropriations Act 2021. These data are needed to inform our larger analyses of hospital supplemental payments.

I recognize that you are continuing to have challenges making this data available through MACFin, but we are happy to receive the data in whatever format you can send it in. If it helps, we can provide an upload link to our file sharing site on Box.com. This is a process we have used in the past with other CMS divisions for large data files.

Happy to discuss further if you have any questions.

~ Rob

On Tue, Apr 11, 2023 at 4:46 PM Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov> wrote:

Hi Rob,

We have not made the reports available for review because we are still working to transition to a new site. We will let you know once they are available. If you let us know the specific reports needed and we can work to provide them. I appreciate your patients as we work to improve MACFin.

Thanks,

Robert

From: Robert Nelb <robert.nelb@macpac.gov>

Sent: Monday, April 10, 2023 2:03 PM

To: Kessler, Christopher (CMS/CMCS) <Christopher.Kessler@cms.hhs.gov>

Cc: Aaron Pervin <aaron.pervin@macpac.gov>; Barraza, Leticia (CMS/CMCS) <Leticia.Barraza@cms.hhs.gov>; Chris Park <chris.park@macpac.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Kate Massey <kate.massey@macpac.gov>; Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov>; Sam-Louie, Henrietta (CMS/CMCS) <Henrietta.Sam-Louie@cms.hhs.gov>

Subject: Re: Request: CMS MACFin data

Hi all -

I just wanted to follow up to see if you had any more updates on getting us access to the UPL reports. The link in the MACfin system still does not work for me.

Thanks,

- Rob

On Wed, Mar 8, 2023 at 9:34 AM Kessler, Christopher (CMS/CMCS) <Christopher.Kessler@cms.hhs.gov> wrote:

I approved MACFIN accesses for Chris P. and Aaron Pervin

From: Chris Park <chris.park@macpac.gov>

Sent: Tuesday, March 7, 2023 4:40 PM

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

Cc: Robert Nelb <robert.nelb@macpac.gov>; Kate Massey <Kate.Massey@macpac.gov>; Barraza, Leticia (CMS/CMCS) <Leticia.Barraza@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Kessler, Christopher (CMS/CMCS) <Christopher.Kessler@cms.hhs.gov>; Sam-Louie, Henrietta (CMS/CMCS) <Henrietta.Sam-Louie@cms.hhs.gov>; Aaron Pervin <aaron.pervin@macpac.gov>

Subject: Re: Request: CMS MACFin data

Rob, just so that you have Aaron's email, I copied him on this chain

On Tue, Mar 7, 2023 at 10:06 AM Chris Park <chris.park@macpac.gov> wrote:

Yes, that works for me. Thanks

On Tue, Mar 7, 2023 at 9:47 AM Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov> wrote:

Hi Chris,

I will send an appointment for 4-4:30pm to hold. Let me know if that works.

Robert

From: Chris Park <chris.park@macpac.gov>

Sent: Tuesday, March 7, 2023 9:27 AM

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

Cc: Robert Nelb <robert.nelb@macpac.gov>; Kate Massey <Kate.Massey@macpac.gov>; Barraza, Leticia (CMS/CMCS) <Leticia.Barraza@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Kessler, Christopher (CMS/CMCS) <Christopher.Kessler@cms.hhs.gov>; Sam-Louie, Henrietta (CMS/CMCS) <Henrietta.Sam-Louie@cms.hhs.gov>

Subject: Re: Request: CMS MACFin data

Rob,

Rob Nelb and I are available from 3-5 pm today. If necessary, we could also meet over lunch from 11:30 - 1pm. If you can't meet at those times, then feel free to schedule something with Rob while I'm out.

Thanks,

Chris

On Tue, Mar 7, 2023 at 9:01 AM Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov> wrote:

Hi Chris,

Can we schedule some time to discuss your request and what you need access too so that we can figure out how to give you access until we finish development? It would also be helpful for us to understand what you need access to as we build out our user management module. If we can't schedule today. Maybe we can work with Rob later this week or next week.

Thanks,

Robert

From: Chris Park <chris.park@macpac.gov>

Sent: Monday, March 6, 2023 12:07 PM

To: Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov>; Robert Nelb <robert.nelb@macpac.gov>

Cc: Kate Massey <Kate.Massey@macpac.gov>

Subject: Re: Request: CMS MACFin data

Robert,

The MACFin help desk had advised me to just select FMG read-only access, but that wasn't a clear option. My colleague Rob Nelb, who is copied on this email, just went through the process and selected FMG (not sure which division) and got approved. But none of the reports seem to generate data. Is there another CMS branch we could select until the system is built out? For example, I would guess that our use of the data will be similar to OACT.

We primarily want access to the UPL demonstration data and the CMS-37 reports at this point. However, we will likely want to get the most updated data as we go along, so we may have a lot of data requests, so it would be good to have access as soon as possible.

I'll be out of the office starting Wednesday, March 8 through the end of the month, but if you could work with Rob Nelb about getting the UPL data at this point that would be great.

Chris

On Mon, Mar 6, 2023 at 11:54 AM Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov> wrote:

Hi Chris,

As Rory indicates below, we are still developing the user management for MACFin. It may take some time to build in the access for non-CMS Federal employees. If you have an immediate data need please let me and we will try to assist.

Thanks,

Robert

From: Kate Massey <Kate.Massey@macpac.gov>
Sent: Friday, March 3, 2023 3:07 PM
To: Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov>; Chris Park <chris.park@macpac.gov>
Subject: RE: Request: CMS MACFin data

Rory,

Appreciate your patience. When MACPAC has a Commission meeting, our week is more hectic than usual.

Thank you for referring us to Robert. I'm moving us all to 'bcc' now and introducing Robert and Chris virtually so that they can partner together on next steps.

We are grateful for your responsiveness and partnership. Have a great weekend!

Kate

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, February 28, 2023 4:50 PM
To: Kate Massey <Kate.Massey@macpac.gov>
Cc: Moira Forbes <moira.forbes@macpac.gov>; Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov>
Subject: RE: Request: CMS MACFin data

Hi Kate,

Thanks for reaching out. I apologize that Chris is having some challenges obtaining MACFin access. As we continue to transition from MBES to MACFin, our process for providing MACFin access to external users is still under development. In the interim, we would be happy to connect with Chris to fulfill his current data needs directly and to get system access moving forward. I've looped in Robert Lane, the Director of the Division of Financial Operations East, who oversees the business aspects of MACFin. Robert and team are happy to work with Chris directly.

Please let me know if you have questions or need anything else.

Thanks,

Rory

Rory Howe

Director

Financial Management Group

CMS/CMCS

443-615-1277

From: Kate Massey <Kate.Massey@macpac.gov>
Sent: Tuesday, February 28, 2023 12:00 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Moira Forbes <moira.forbes@macpac.gov>
Subject: RE: Request: CMS MACFin data

Thanks so much, Lela. Moving you and Anne Marie to 'bcc' moving forward.

Hi Rory, MACPAC has been working to secure access to key Medicaid data that will inform our analytic work next year. In particular, Chris Park has been trying to secure access to certain MACFin modules but has been challenged throughout the process since our role isn't part of the preselected options flagged during registration.

Would you be able to help us navigate the approval process? Also, happy to jump on a brief call if that would help identify which data we need.

Let us know. Thanks!

Kate

Kate Massey

Executive Director

MACPAC - Medicaid and CHIP Payment and Access Commission

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From: Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>

Sent: Tuesday, February 28, 2023 10:46 AM

To: Kate Massey <Kate.Massey@macpac.gov>; Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>

Cc: Moira Forbes <moira.forbes@macpac.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Subject: RE: Request: CMS MACFin data

Good Morning Kate,

Yes, I can place you in contact with Rory (copied here) for assistance.

Thank you,

From: Kate Massey <Kate.Massey@macpac.gov>
Sent: Monday, February 27, 2023 7:57 PM
To: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>
Cc: Moira Forbes <moira.forbes@macpac.gov>
Subject: Request: CMS MACFin data

Hi Anne Marie and Lela,

Sorry to bother you with this request since so much is going on. In good news, MACPAC was able to connect with Jen Bowdoin and secure the HCBS ARPA spending plans. However, we are still hoping to gain access to MACFin.

Is there any point of contact with whom we can partner? Because next year's work hinges on these data, we need to understand its availability and breadth.

Let us know. Thanks so much for your help.

Kate

From: Kate Massey <Kate.Massey@macpac.gov>
Sent: Wednesday, February 15, 2023 3:53 PM
To: 'Costello, Anne Marie (CMS/CMCS)' <AnneMarie.Costello@cms.hhs.gov>; 'Teal, Lela (CMS/CMCS)' <Lela.Teal@cms.hhs.gov>
Cc: Moira Forbes <moira.forbes@macpac.gov>; Kirstin Blom <kirstin.blom@macpac.gov>
Subject: Request: CMS data and HCBS ARPA state submissions

Hi Anne Marie and Lela,

MACPAC is in the process of gearing up for the analyses that we will present to the Commission during our next analytic cycle. As we have been working to build out the projects, there are several that would utilize Medicaid program data managed by CMS. For example, we are interested in accessing MACFin because the CMS-37

projected spending reports have been moved from MBES (which MACPAC has access to) to MACFin. We use the CMS-37 for the territories to help project what funding they may need in future years. Also, several things are being transitioned into MACFin, such as the UPL demonstrations and DSH audit data and these data will feed into next year's project work.

MACPAC doesn't fall neatly into the predetermined categories of users so our attempts to establish access have stalled. Chris Park is the primary analyst who has been working to secure access to the data. I've copied an email chain below so that you can see how he's been approaching the request. If there is anything that you can do to help us navigate the approval process or provide a point of contact, we'd greatly appreciate the help. Some of our projects will not be able to move forward without access to these new data.

Also, can you please provide any direction to secure access to HCBS spending plans (submitted quarterly) and spending narratives (submitted every other quarter)? We have committed to monitor the ARPA HCBS spending plans until the resources are expended. Thus far, we have been interviewing states and tracking publicly available data; however, the state submissions will help to fill out our monitoring activities.

Please let me know if you have any questions. Thanks in advance – as always – for your help!

Kate

Kate Massey

Executive Director

MACPAC - Medicaid and CHIP Payment and Access Commission

Pronouns: she/her/hers

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From: Chris Park <chris.park@macpac.gov>
Sent: Monday, December 5, 2022 10:37 AM
To: Kate Massey <katherine.massey@macpac.gov>; Moira Forbes <moira.forbes@macpac.gov>
Subject: Fwd: Question on MACFin user type

----- Forwarded message -----

From: **Chris Park** <chris.park@macpac.gov>
Date: Mon, Sep 19, 2022 at 10:52 AM
Subject: Re: Question on MACFin user type
To: MACFin Helpdesk <MACFinHelpdesk@dcca.com>
Cc: MACFinHDTier2 <MACFinHDTier2@dcca.com>

Hi all, just checking in on this question I had about selecting a user type for MACFin access.

Thanks,

Chris

On Fri, Sep 9, 2022 at 1:35 PM MACFin Helpdesk <MACFinHelpdesk@dcca.com> wrote:

Adding Tier 2

From: Chris Park <chris.park@macpac.gov>
Sent: Friday, September 9, 2022 1:28 PM
To: MACFin Helpdesk <MACFinHelpdesk@DCCA.com>
Subject: Re: Question on MACFin user type

External Email - Please be cautious when opening links or attachments.

Hi,

Thanks for the follow-up, but I'm not sure how to select FMG Read-only access. I can get to FMG by selecting a user type of CMS Federal and group/office of FMG, but then it requires me to select a division and possibly a branch. Which options should I choose under division and if necessary, branch.

Division: choices are Division of Financial Operations East, Division of Financial Operations West, Division of Financial Policy, Division of Reimbursement Policy, Front Office, and Division of Reimbursement Review.

Other options for division such as DSG, OFM, OACT, and Others don't require me to select a division. Should I choose one of those instead?

Thanks,

Chris

On Fri, Sep 9, 2022 at 12:25 PM MACFin Helpdesk <MACFinHelpdesk@dcca.com> wrote:

Good afternoon Chris,

My apologies for the delay as my team discussed this internally. The recommended role for you to use would be FMG Read-only access.

Thanks,

Danielle

MACFin Tier 2 – Technical Support

MACFinHelpdesk@DCCA.com

833-879-6075

From: Chris Park <chris.park@macpac.gov>
Sent: Thursday, September 1, 2022 3:23 PM
To: MACFin Helpdesk <MACFinHelpdesk@DCCA.com>
Subject: Question on MACFin user type

External Email - Please be cautious when opening links or attachments.

Hi,

I'm an analyst with MACPAC and have recently been granted access to MACFin. I'm at the step upon the first log-on where I am asked to select a user type. MACPAC does not fit into any of the provided selections. We are not a state user, CMS group/office, or a contractor. On our DUA with CMS, we have been classified as an oversight agency. We do not need to enter or edit any information, but rather would like to generate reports using a variety of data such as the CMS-37, DSH audit, UPL demonstration, etc. Do you have a suggestion on what I should select?

Thanks,

Chris

--

Chris Park

Principal Analyst

Medicaid and CHIP Payment and Access Commission

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Principal Analyst

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Robert Nelb, MPH
Principal Analyst

MACPAC - Medicaid and CHIP Payment and Access Commission

Pronouns: he/him/his

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Robert Nelb, MPH
Principal Analyst
MACPAC - Medicaid and CHIP Payment and Access Commission
Pronouns: he/him/his

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Robert Nelb, MPH
Principal Analyst
MACPAC - Medicaid and CHIP Payment and Access Commission
Pronouns: he/him/his

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Robert Nelb, MPH
Principal Analyst
MACPAC - Medicaid and CHIP Payment and Access Commission
Pronouns: he/him/his

Message

From: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6)
Sent: 4/24/2023 5:45:08 PM
To: Wiley, Evelyn (CMS/CMCS); (b)(6)
(b)(6)
CC: Maccarroll, Amber (CMS/CMCS); (b)(6)
(b)(6) Silanskis, Jeremy D.
(CMS/CMCS) (Jeremy.Silanskis@cms.hhs.gov); (b)(6)
(b)(6) Arnold, Charlie (CMS/CMCS)
(b)(6) Goldstein, Stuart
(CMS/CMCS); (b)(6)
(b)(6) Clark, Jennifer
(CMS/CMCS); (b)(6)
(b)(6) Thompson, Christopher
(CMS/CMCS); (b)(6)
(b)(6); Badaracco, Andrew
(CMS/CMCS); (b)(6)
(b)(6)
Subject: FW: FW: Touching base on financing and supplemental payments?

Hi Evelyn. Please include everyone on the "cc:" line on the appointment, recognizing that we should have sufficient coverage as long as we have one attendee from each of DFP and DRP. Thanks!

Rory

From: Howe, Rory (CMS/CMCS)
Sent: Monday, April 24, 2023 1:42 PM
To: Robert Nelb <robert.nelb@macpac.gov>
Cc: Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Subject: RE: Touching base on financing and supplemental payments?

Hi Rob,

Apologies for the delayed response. It is good to hear from you and I hope you are doing well, too. We are happy to talk. I've copied Evelyn Wiley to help with scheduling on our end. Also, FYI, I will loop in a few others from FMG to make sure you are getting all the information that you need. Looking forward to talking soon.

Rory

From: Robert Nelb <robert.nelb@macpac.gov>
Sent: Monday, April 24, 2023 1:12 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: Re: Touching base on financing and supplemental payments?

Hi Rory -

I hope you had a good weekend. Just wanted to follow up on this request. Feel free to direct me to others on your team if needed.

Thanks,

~ Rob

On Mon, Apr 17, 2023 at 8:54 AM Robert Nelb <robert.nelb@macpac.gov> wrote:

Rory -

I hope you're doing well. At MACPAC, we're starting some new work on oversight of non-federal share financing, and our new ED, Kate Massey, mentioned that Dan suggested we reach out to you and your team to learn more about some of the current issues you're working on, including the recent hold harmless issues with local provider taxes.

Also, I just wanted to give you a heads up that we're continuing to run into issues accessing the new provider-level supplemental payments data, since we don't seem to have access to it in MACFin. We're open to other ways to get this data if the system isn't working. For example, we just worked with DEHPG to have them upload all of the directed payment pre-prints to our secure shared file site on Box.com.

Happy to set up time to chat about both of these issues whenever you're available. I recognize that different teams might be involved in each issue, so we can set up separate calls if that's easier. Also, feel free to give me a call at (b)(6) if it's easier to chat on the phone.

~ Rob

----- Forwarded message -----

From: **Robert Nelb** <robert.nelb@macpac.gov>

Date: Tue, Apr 11, 2023 at 5:02 PM

Subject: Re: Request: CMS MACFin data

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

Cc: Kessler, Christopher (CMS/CMCS) <Christopher.Kessler@cms.hhs.gov>, Aaron Pervin <aaron.pervin@macpac.gov>, Barraza, Leticia (CMS/CMCS) <Leticia.Barraza@cms.hhs.gov>, Chris Park <chris.park@macpac.gov>, Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>, Kate Massey <kate.massey@macpac.gov>, Sam-Louie, Henrietta (CMS/CMCS) <Henrietta.Sam-Louie@cms.hhs.gov>

Thanks all for your continued help on this issue.

At this point, we are primarily interested in reviewing the hospital-specific data for inpatient and outpatient hospital supplemental payments that has been submitted under the new reporting requirements of the Consolidated Appropriations Act 2021. These data are needed to inform our larger analyses of hospital supplemental payments.

I recognize that you are continuing to have challenges making this data available through MACFin, but we are happy to receive the data in whatever format you can send it in. If it helps, we can provide an upload link to our file sharing site on Box.com. This is a process we have used in the past with other CMS divisions for large data files.

Happy to discuss further if you have any questions.

~ Rob

On Tue, Apr 11, 2023 at 4:46 PM Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov> wrote:

Hi Rob,

We have not made the reports available for review because we are still working to transition to a new site. We will let you know once they are available. If you let us know the specific reports needed and we can work to provide them. I appreciate your patients as we work to improve MACFin.

Thanks,

Robert

From: Robert Nelb <robert.nelb@macpac.gov>

Sent: Monday, April 10, 2023 2:03 PM

To: Kessler, Christopher (CMS/CMCS) <Christopher.Kessler@cms.hhs.gov>

Cc: Aaron Pervin <aaron.pervin@macpac.gov>; Barraza, Leticia (CMS/CMCS) <Leticia.Barraza@cms.hhs.gov>; Chris Park <chris.park@macpac.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Kate Massey <kate.massey@macpac.gov>; Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov>; Sam-Louie, Henrietta (CMS/CMCS) <Henrietta.Sam-Louie@cms.hhs.gov>

Subject: Re: Request: CMS MACFin data

Hi all -

I just wanted to follow up to see if you had any more updates on getting us access to the UPL reports. The link in the MACfin system still does not work for me.

Thanks,

- Rob

On Wed, Mar 8, 2023 at 9:34 AM Kessler, Christopher (CMS/CMCS) <Christopher.Kessler@cms.hhs.gov> wrote:

I approved MACFIN accesses for Chris P. and Aaron Pervin

From: Chris Park <chris.park@macpac.gov>

Sent: Tuesday, March 7, 2023 4:40 PM

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

Cc: Robert Nelb <robert.nelb@macpac.gov>; Kate Massey <Kate.Massey@macpac.gov>; Barraza, Leticia (CMS/CMCS)

<Leticia.Barraza@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Kessler, Christopher (CMS/CMCS) <Christopher.Kessler@cms.hhs.gov>; Sam-Louie, Henrietta (CMS/CMCS) <Henrietta.Sam-Louie@cms.hhs.gov>; Aaron Pervin <aaron.pervin@macpac.gov>

Subject: Re: Request: CMS MACFin data

Rob, just so that you have Aaron's email, I copied him on this chain

On Tue, Mar 7, 2023 at 10:06 AM Chris Park <chris.park@macpac.gov> wrote:

Yes, that works for me. Thanks

On Tue, Mar 7, 2023 at 9:47 AM Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov> wrote:

Hi Chris,

I will send an appointment for 4-4:30pm to hold. Let me know if that works.

Robert

From: Chris Park <chris.park@macpac.gov>

Sent: Tuesday, March 7, 2023 9:27 AM

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

Cc: Robert Nelb <robert.nelb@macpac.gov>; Kate Massey <Kate.Massey@macpac.gov>; Barraza, Leticia (CMS/CMCS) <Leticia.Barraza@cms.hhs.gov>; Holligan, Ricardo (CMS/CMCS) <Ricardo.Holligan@cms.hhs.gov>; Kessler, Christopher (CMS/CMCS) <Christopher.Kessler@cms.hhs.gov>; Sam-Louie, Henrietta (CMS/CMCS) <Henrietta.Sam-Louie@cms.hhs.gov>

Subject: Re: Request: CMS MACFin data

Rob,

Rob Nelb and I are available from 3-5 pm today. If necessary, we could also meet over lunch from 11:30 - 1pm. If you can't meet at those times, then feel free to schedule something with Rob while I'm out.

Thanks,

Chris

On Tue, Mar 7, 2023 at 9:01 AM Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov> wrote:

Hi Chris,

Can we schedule some time to discuss your request and what you need access too so that we can figure out how to give you access until we finish development? It would also be helpful for us to understand what you need access to as we build out our user management module. If we can't schedule today. Maybe we can work with Rob later this week or next week.

Thanks,

Robert

From: Chris Park <chris.park@macpac.gov>

Sent: Monday, March 6, 2023 12:07 PM

To: Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov>; Robert Nelb <robert.nelb@macpac.gov>

Cc: Kate Massey <Kate.Massey@macpac.gov>

Subject: Re: Request: CMS MACFin data

Robert,

The MACFin help desk had advised me to just select FMG read-only access, but that wasn't a clear option. My colleague Rob Nelb, who is copied on this email, just went through the process and selected FMG (not sure which division) and got approved. But none of the reports seem to generate data. Is there another CMS branch we could select until the system is built out? For example, I would guess that our use of the data will be similar to OACT.

We primarily want access to the UPL demonstration data and the CMS-37 reports at this point. However, we will likely want to get the most updated data as we go along, so we may have a lot of data requests, so it would be good to have access as soon as possible.

I'll be out of the office starting Wednesday, March 8 through the end of the month, but if you could work with Rob Nelb about getting the UPL data at this point that would be great.

Chris

On Mon, Mar 6, 2023 at 11:54 AM Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov> wrote:

Hi Chris,

As Rory indicates below, we are still developing the user management for MACFin. It may take some time to build in the access for non-CMS Federal employees. If you have an immediate data need please let me and we will try to assist.

Thanks,

Robert

From: Kate Massey <Kate.Massey@macpac.gov>

Sent: Friday, March 3, 2023 3:07 PM

To: Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov>; Chris Park <chris.park@macpac.gov>

Subject: RE: Request: CMS MACFin data

Rory,

Appreciate your patience. When MACPAC has a Commission meeting, our week is more hectic than usual.

Thank you for referring us to Robert. I'm moving us all to 'bcc' now and introducing Robert and Chris virtually so that they can partner together on next steps.

We are grateful for your responsiveness and partnership. Have a great weekend!

Kate

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, February 28, 2023 4:50 PM
To: Kate Massey <Kate.Massey@macpac.gov>
Cc: Moira Forbes <moira.forbes@macpac.gov>; Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov>
Subject: RE: Request: CMS MACFin data

Hi Kate,

Thanks for reaching out. I apologize that Chris is having some challenges obtaining MACFin access. As we continue to transition from MBES to MACFin, our process for providing MACFin access to external users is still under development. In the interim, we would be happy to connect with Chris to fulfill his current data needs directly and to get system access moving forward. I've looped in Robert Lane, the Director of the Division of Financial Operations East, who oversees the business aspects of MACFin. Robert and team are happy to work with Chris directly.

Please let me know if you have questions or need anything else.

Thanks,

Rory

Rory Howe

Director

Financial Management Group

CMS/CMCS

443-615-1277

From: Kate Massey <Kate.Massey@macpac.gov>
Sent: Tuesday, February 28, 2023 12:00 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Moira Forbes <moira.forbes@macpac.gov>
Subject: RE: Request: CMS MACFin data

Thanks so much, Lela. Moving you and Anne Marie to 'bcc' moving forward.

Hi Rory, MACPAC has been working to secure access to key Medicaid data that will inform our analytic work next year. In particular, Chris Park has been trying to secure access to certain MACFin modules but has been challenged throughout the process since our role isn't part of the preselected options flagged during registration.

Would you be able to help us navigate the approval process? Also, happy to jump on a brief call if that would help identify which data we need.

Let us know. Thanks!

Kate

Kate Massey

Executive Director

MACPAC - Medicaid and CHIP Payment and Access Commission

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From: Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>
Sent: Tuesday, February 28, 2023 10:46 AM
To: Kate Massey <Kate.Massey@macpac.gov>; Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>
Cc: Moira Forbes <moira.forbes@macpac.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE: Request: CMS MACFin data

Good Morning Kate,

Yes, I can place you in contact with Rory (copied here) for assistance.

Thank you,

From: Kate Massey <Kate.Massey@macpac.gov>
Sent: Monday, February 27, 2023 7:57 PM
To: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Teal, Lela (CMS/CMCS) <Lela.Teal@cms.hhs.gov>
Cc: Moira Forbes <moira.forbes@macpac.gov>
Subject: Request: CMS MACFin data

Hi Anne Marie and Lela,

Sorry to bother you with this request since so much is going on. In good news, MACPAC was able to connect with Jen Bowdoin and secure the HCBS ARPA spending plans. However, we are still hoping to gain access to MACFin.

Is there any point of contact with whom we can partner? Because next year's work hinges on these data, we need to understand its availability and breadth.

Let us know. Thanks so much for your help.

Kate

From: Kate Massey <Kate.Massey@macpac.gov>

Sent: Wednesday, February 15, 2023 3:53 PM

To: 'Costello, Anne Marie (CMS/CMCS)' <AnneMarie.Costello@cms.hhs.gov>; 'Teal, Lela (CMS/CMCS)' <Lela.Teal@cms.hhs.gov>

Cc: Moira Forbes <moira.forbes@macpac.gov>; Kirstin Blom <kirstin.blom@macpac.gov>

Subject: Request: CMS data and HCBS ARPA state submissions

Hi Anne Marie and Lela,

MACPAC is in the process of gearing up for the analyses that we will present to the Commission during our next analytic cycle. As we have been working to build out the projects, there are several that would utilize Medicaid program data managed by CMS. For example, we are interested in accessing MACFin because the CMS-37 projected spending reports have been moved from MBES (which MACPAC has access to) to MACFin. We use the CMS-37 for the territories to help project what funding they may need in future years. Also, several things are being transitioned into MACFin, such as the UPL demonstrations and DSH audit data and these data will feed into next year's project work.

MACPAC doesn't fall neatly into the predetermined categories of users so our attempts to establish access have stalled. Chris Park is the primary analyst who has been working to secure access to the data. I've copied an email chain below so that you can see how he's been approaching the request. If there is anything that you can do to help us navigate the approval process or provide a point of contact, we'd greatly appreciate the help. Some of our projects will not be able to move forward without access to these new data.

Also, can you please provide any direction to secure access to HCBS spending plans (submitted quarterly) and spending narratives (submitted every other quarter)? We have committed to monitor the ARPA HCBS spending plans until the resources are expended. Thus far, we have been interviewing states and tracking publicly available data; however, the state submissions will help to fill out our monitoring activities.

Please let me know if you have any questions. Thanks in advance – as always – for your help!

Kate

Kate Massey

Executive Director

MACPAC - Medicaid and CHIP Payment and Access Commission

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From: Chris Park <chris.park@macpac.gov>

Sent: Monday, December 5, 2022 10:37 AM

To: Kate Massey <katherine.massey@macpac.gov>; Moira Forbes <moira.forbes@macpac.gov>

Subject: Fwd: Question on MACFin user type

----- Forwarded message -----

From: **Chris Park** <chris.park@macpac.gov>

Date: Mon, Sep 19, 2022 at 10:52 AM

Subject: Re: Question on MACFin user type

To: MACFin Helpdesk <MACFinHelpdesk@dcca.com>

Cc: MACFinHDTier2 <MACFinHDTier2@dcca.com>

Hi all, just checking in on this question I had about selecting a user type for MACFin access.

Thanks,

Chris

On Fri, Sep 9, 2022 at 1:35 PM MACFin Helpdesk <MACFinHelpdesk@dcca.com> wrote:

Adding Tier 2

From: Chris Park <chris.park@macpac.gov>

Sent: Friday, September 9, 2022 1:28 PM

To: MACFin Helpdesk <MACFinHelpdesk@DCCA.com>

Subject: Re: Question on MACFin user type

External Email - Please be cautious when opening links or attachments.

Hi,

Thanks for the follow-up, but I'm not sure how to select FMG Read-only access. I can get to FMG by selecting a user type of CMS Federal and group/office of FMG, but then it requires me to select a division and possibly a branch. Which options should I choose under division and if necessary, branch.

Division: choices are Division of Financial Operations East, Division of Financial Operations West, Division of Financial Policy, Division of Reimbursement Policy, Front Office, and Division of Reimbursement Review.

Other options for division such as DSG, OFM, OACT, and Others don't require me to select a division. Should I choose one of those instead?

Thanks,

Chris

On Fri, Sep 9, 2022 at 12:25 PM MACFin Helpdesk <MACFinHelpdesk@dcca.com> wrote:

Good afternoon Chris,

My apologies for the delay as my team discussed this internally. The recommended role for you to use would be FMG Read-only access.

Thanks,

Danielle

MACFin Tier 2 – Technical Support

MACFinHelpdesk@DCCA.com

833-879-6075

From: Chris Park <chris.park@macpac.gov>

Sent: Thursday, September 1, 2022 3:23 PM

To: MACFin Helpdesk <MACFinHelpdesk@DCCA.com>

Subject: Question on MACFin user type

External Email - Please be cautious when opening links or attachments.

Hi,

I'm an analyst with MACPAC and have recently been granted access to MACFin. I'm at the step upon the first log-on where I am asked to select a user type. MACPAC does not fit into any of the provided selections. We are

not a state user, CMS group/office, or a contractor. On our DUA with CMS, we have been classified as an oversight agency. We do not need to enter or edit any information, but rather would like to generate reports using a variety of data such as the CMS-37, DSH audit, UPL demonstration, etc. Do you have a suggestion on what I should select?

Thanks,

Chris

--

Chris Park

Principal Analyst

Medicaid and CHIP Payment and Access Commission

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Chris Park

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Robert Nelb, MPH

Principal Analyst

MACPAC - Medicaid and CHIP Payment and Access Commission

Pronouns: he/him/his

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Pronouns: he/him/his

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Pronouns: he/him/his

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Robert Nelb, MPH
Principal Analyst
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Pronouns: he/him/his

Message

Sent: 2/15/2023 9:51:50 PM
To: Tsai, Daniel (CMS/CMCS); (b)(6)
(b)(6)
CC: Hebert, Krista (CMS/CMCS); (b)(6)
(b)(6) Briskin, Perrie
(CMS/CMCS); (b)(6)
(b)(6)
Subject: RE: RE: Tax CIB Draft - Redline Edits

Hi Dan,

Preliminarily, OGC/CMSD is okay with changing the two references in the letter from “tax containing a hold harmless arrangement” to “tax program containing a hold harmless arrangement.” CMSD is confirming with the OGC litigators, but expects them to support the change as well. Based on this feedback, I plan to update the CIB as long as you are okay with the language.

Thanks,
Rory

From: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 11:30 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>
Subject: RE: Tax CIB Draft - Redline Edits

Great, thanks. Pls let me know what language you suggest on the tax program etc piece – and pls try to catch OGC today. I will call Paul to align as needed. Thanks.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 10:33 AM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Cc: Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>
Subject: Tax CIB Draft - Redline Edits

Please see the redline edits per your request

Message

Sent: 3/28/2023 8:06:45 PM
To: Giles, John (CMS/CMCS); (b)(6); (b)(6); Tsai, Daniel (CMS/CMCS)
(b)(6); (b)(6)
CC: Costello, Anne Marie (CMS/CMCS); (b)(6); Stegmaier, Jason
(b)(6); Stephens, Jessica
(b)(6); Rashid, Mehreen
(CMS/CMCS); (b)(6); Miller, Courtney
(CMS/CMCS); (b)(6); Kochanski, Joseph
(CMS/CMCS); (b)(6); Hebert, Krista
(CMS/CMCS); (b)(6); Briskin, Perrie
(CMS/CMCS); (b)(6); Silanskis, Jeremy
(CMS/CMCS); (b)(6); Maccarroll, Amber
(CMS/CMCS); (b)(6); Deboy, Alissa
(CMS/CMCS); (b)(6)
Subject: RE: RE: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

One quick update from FMG – as part of the standard SDP financing review process, our team received some information last week about a proposed IGT arrangement that would indirectly involve an MCO tax. It does not appear to involve the provider redistribution issue covered directly by the CIB, but it is qu

From: Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 1:46 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Stegmaier, Jason (CMS/CMCS) <Jason.Stegmaier@cms.hhs.gov>; Stephens, Jessica (CMS/CMCS) <Jessica.Stephens@cms.hhs.gov>; Rashid, Mehreen (CMS/CMCS) <mehreen.rashid@cms.hhs.gov>; Miller, Courtney (CMS/CMCS) <Courtney.Miller@cms.hhs.gov>; Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Deboy, Alissa (CMS/CMCS) <alissa.deboy1@cms.hhs.gov>; Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>
Subject: RE: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

We also provided technical assistance on the SDPs. We were clear that we are not commenting on the state's draft legislation, but providing technical assistance on the language we reviewed. The state's legislation does appear to authorize state directed payments based on historical utilization that will rely on interim payments and post-payment annual reconciliations. We provided technical assistance on the potential challenges of such an approach. As a reminder, such payment arrangements would be prohibited under our forthcoming proposed managed care rule (should it be finalized as proposed).

Please let me know if you need more on the SDPs. Thanks!

John Giles, MPA
Director, Division of Managed Care Policy
Disabled and Elderly Health Programs Group
Center for Medicaid and CHIP Services
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Phone: 410-786-5545
E-mail: John.Giles1@cms.hhs.gov

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 12:14 PM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Stegmaier, Jason (CMS/CMCS) <Jason.Stegmaier@cms.hhs.gov>; Stephens, Jessica (CMS/CMCS) <Jessica.Stephens@cms.hhs.gov>; Rashid, Mehreen (CMS/CMCS) <mehreen.rashid@cms.hhs.gov>; Miller, Courtney (CMS/CMCS) <Courtney.Miller@cms.hhs.gov>; Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Deboy, Alissa (CMS/CMCS) <alissa.deboy1@cms.hhs.gov>; Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>
Subject: RE: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

+ Alissa and John

Hi Dan,

When we talked with Sue and Charissa a couple of weeks ago, they assured us that they had no information or specific concerns about provider redistributions/hold harmless arrangements regarding their hospital tax. Accordingly, we simply provided some general guidance on the CIB/statutory requirements and offered TA. Sue and Charissa did have a number of questions about the state directed payment process and the 340B program. FMG connected Charissa with Alissa and John to assist with the follow up questions in those areas.

I hope this helps.

Thanks,
Rory

From: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 11:40 AM
To: Stephens, Jessica (CMS/CMCS) <Jessica.Stephens@cms.hhs.gov>; Rashid, Mehreen (CMS/CMCS) <mehreen.rashid@cms.hhs.gov>; Miller, Courtney (CMS/CMCS) <Courtney.Miller@cms.hhs.gov>; Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; 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>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Stegmaier, Jason (CMS/CMCS) <Jason.Stegmaier@cms.hhs.gov>
Subject: RE: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

Adding FMG

The subject for the urgent call w Sue is "Policy Alignment for Safety Net Assessment"

Rory and FMG – I think I recall you recently had a discussion w WA... can you give us an update? I am chatting w Sue Birch this afternoon

Thanks

From: Stephens, Jessica (CMS/CMCS) <Jessica.Stephens@cms.hhs.gov>

Sent: Tuesday, March 28, 2023 11:08 AM

To: Rashid, Mehreen (CMS/CMCS) <mehreen.rashid@cms.hhs.gov>; Miller, Courtney (CMS/CMCS) <Courtney.Miller@cms.hhs.gov>; Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>; Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>

Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Stegmaier, Jason (CMS/CMCS) <Jason.Stegmaier@cms.hhs.gov>

Subject: RE: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

This sounds more likely than unwinding. Suzette reached out to them yesterday to flag one more renewal compliance issue related to telephonic signatures, and they needed to implement a strategy for approval of their mitigation plan. However, they did that quickly, and we should be able to send an informal approval today.

From: Rashid, Mehreen (CMS/CMCS) <mehreen.rashid@cms.hhs.gov>

Sent: Tuesday, March 28, 2023 9:36 AM

To: Miller, Courtney (CMS/CMCS) <Courtney.Miller@cms.hhs.gov>; Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>; Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>

Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Stephens, Jessica (CMS/CMCS) <Jessica.Stephens@cms.hhs.gov>; Stegmaier, Jason (CMS/CMCS) <Jason.Stegmaier@cms.hhs.gov>

Subject: RE: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

Good morning,

The Tribal concern is what comes to mind for SDG. WA is requesting approval for a Native Hub to provide HRSN services to AI/AN individuals. The services provided by the Native Hub would differ from those provided to other Medicaid beneficiaries. We told the state last week that OCR has raised concerns in other states about providing services to AI/AN individuals that differ from those provided to other beneficiaries. Washington said they disagree because of tribal sovereignty and want us to provide specific documentation of the OCR rules.

Of note, the state received approval in 2017 in its DSRIP program for Tribal specific projects administered by Indian Health Care Providers. The demonstration has a number of STCs documenting the approval. For example, "Consistent with the government-to-government relationship between the tribes and the State, tribes, IHCPs, or consortia of tribes and IHCPs can apply directly through the State to receive funding for eligible tribal specific projects."

Thank you!
Mehreen

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From: Miller, Courtney (CMS/CMCS) <Courtney.Miller@cms.hhs.gov>

Sent: Tuesday, March 28, 2023 8:29 AM

To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>; Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>

Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Stephens, Jessica (CMS/CMCS) <Jessica.Stephens@cms.hhs.gov>; Rashid, Mehreen (CMS/CMCS) <mehreen.rashid@cms.hhs.gov>; Stegmaier, Jason (CMS/CMCS) <Jason.Stegmaier@cms.hhs.gov>

Subject: RE: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

+ Jason, who is coordinating any notes for you from the MCOG state team.

From: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>

Sent: Monday, March 27, 2023 7:57 PM

To: Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>

Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Stephens, Jessica (CMS/CMCS) <Jessica.Stephens@cms.hhs.gov>; Rashid, Mehreen (CMS/CMCS) <mehreen.rashid@cms.hhs.gov>; Miller, Courtney (CMS/CMCS) <Courtney.Miller@cms.hhs.gov>

Subject: FW: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

Joe - I could give her a call tmrw afternoon/evening while we're in car heading down from our Baltimore office to DC.
Joe – can you note for Michelle and find a 15 mins slot on the car tmrw afternoon for me to call Sue Birch - thanks

Jessica, Mehreen and Courtney – anything of note for WA on their 1115 or unwinding or anything else?

Thanks

From: Le Duc, Michelle (HCA) <michelle.leduc@hca.wa.gov>

Sent: Monday, March 27, 2023 7:38 PM

To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>

Cc: Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>

Subject: RE: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

Thank you. I am working on getting that to you as soon as possible. Joe has been helpful with identifying April 6th as an option. Sue mentioned it is urgent and asked if she could perhaps text with you instead?? She would just need a number. If you prefer, her cell is (b)(6)

Appreciate your help.

Michelle Le Duc

Executive Secretary – Office of the Director

Assistant to Director Sue Birch

Office: 360-725-1040 | Cell: (b)(6)

Pronouns: she/her

Washington State

Health Care Authority

From: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Sent: Monday, March 27, 2023 4:17 PM
To: Le Duc, Michelle (HCA) <michelle.leduc@hca.wa.gov>
Cc: Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>
Subject: RE: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

External Email

Hi Michelle – happy to. Cc'ing Joe (who can help schedule). We'd be grateful if you can send over for us a few quick bullets on the agenda/subject, if possible

Thanks

From: Le Duc, Michelle (HCA) <michelle.leduc@hca.wa.gov>
Sent: Monday, March 27, 2023 3:36 PM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Subject: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

Hi Mr. Tsai,

Sue and Charissa are hopeful to connect with you for approximately 30 minutes in the very near future. If possible may Sue Birch text you to align a time or would you be willing to work with myself or have me work with your Admin?

Thank you,

Michelle Le Duc

Executive Secretary – Office of the Director

Assistant to Director Sue Birch

Office: 360-725-1040 | Cell: (b)(6)

Pronouns: she/her

Washington State
Health Care Authority

Blank Page

Message

From: Wiley, Evelyn (CMS/CMCS); (b)(6)
(b)(6)
Sent: 5/2/2023 6:02:34 PM
To: Kirchgraber, Kate (CMS/OL); (b)(6)
(b)(6) Howe, Rory
(CMS/CMCS); (b)(6)
(b)(6)
CC: Costello, Anne Marie (CMS/CMCS); (b)(6)
(b)(6) Martino, Maria
(CMS/OL); (b)(6)
(b)(6); Maccarroll, Amber
(CMS/CMCS); (b)(6)
(b)(6) Arnold, Charlie
(CMS/CMCS); (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS); (b)(6)
(b)(6)
Subject: RE: RE: more hold harmless requests

Hi Kate,

FMG is available the following dates and times.

5/4 @ (3 pm – 3:30 pm)

5/8 @ (11 am – 11:30 am) (11:30 am – 12 pm) (1 pm – 1:30 pm)

5/9 @ (11 am – 11:30 am) (11:30 am – 12 pm) (1 pm – 1:30 pm) (1:30 pm – 2 pm) (3 pm – 3:30 pm) (3:30 pm – 4 pm)

5/10 @ (2 pm – 2:30 pm) (4 pm – 4:30)

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: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Sent: Tuesday, May 2, 2023 1:41 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Martino, Maria (CMS/OL) <Maria.Martino@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Subject: RE: more hold harmless requests

Hi Evelyn –

Just looping back on this request. We just got another inquiry from TX, so we really need to get these briefings scheduled.

Thanks.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Monday, May 1, 2023 12:17 PM
To: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Martino, Maria (CMS/OL) <Maria.Martino@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Wiley, Evelyn (CMS/CMCS) <Evelyn.Wiley@cms.hhs.gov>
Subject: RE: more hold harmless requests

Sorry for the duplicate email, all! I just noticed Amber's.

From: Howe, Rory (CMS/CMCS)
Sent: Monday, May 1, 2023 12:16 PM
To: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Martino, Maria (CMS/OL) <Maria.Martino@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: RE: more hold harmless requests

Hi Kate,

I've looped in Evelyn Wiley, who can provide some times that FMG would be available. Thanks.

Rory

From: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Sent: Monday, May 1, 2023 11:31 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Martino, Maria (CMS/OL) <Maria.Martino@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: more hold harmless requests

Hi Rory –

We're continuing to get incoming on the hold harmless CIB, including a new letter from FL Republican members that we received this morning. We've also had requests for calls from a number of Democratic Hill offices. Interest is primarily coming from TX and FL, although we've also had a request from Democratic Senate staff from VA and NV. We were initially going to try to handle these within OL, but given the volume and the potential for questions about what we're doing in each state, we're going to need your help.

We'd like to do 3 separate calls within the next 2 weeks – TX, FL, and a combined one for VA and NV.

Can you give us some times this week and next that you're available for these 3 calls and 1 prep session?

Thanks so much!

Kate

Kate Kirchgraber | Director | Low Income Programs Analysis Group | Office of Legislation | Centers for Medicare & Medicaid Services | kate.kirchgraber@cms.hhs.gov | 202.680.2481

Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 2/17/2023 9:40:53 PM
To: Medicaid.gov@subscriptions.cms.hhs.gov
Subject: Re: Re: Informational Bulletin: Health Care-Related Taxes and Hold Harmless Arrangements

From: Center for Medicaid and CHIP Services (CMCS) <Medicaid.gov@subscriptions.cms.hhs.gov>
Sent: Friday, February 17, 2023 3:26:30 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: Informational Bulletin: Health Care-Related Taxes and Hold Harmless Arrangements

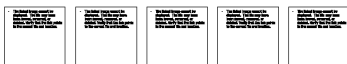
[View in browser](#) | Distributed by Center for Medicaid and CHIP Services (CMCS)

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.](#)

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This e-mail was sent to rory.howe@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

Sent: 5/1/2023 3:33:47 PM
To: Bonelli, Anna (CMS/CMCS) (b)(6) Snyder, Laura (CMS/CMCS) (b)(6)
CC: Giles, John (CMS/CMCS) (b)(6) Gentile, Amy (CMS/CMCS) (b)(6)
Gibson, Alexis (CMS/CMCS) (b)(6)
Subject: RE: RE: Deadline: Noon today NPRM slides for all state call.

Hi, Anna and Laura. I agree with Anna's language below.

From: Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>
Sent: Monday, May 1, 2023 9:20 AM
To: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>; Gentile, Amy (CMS/CMCS) <Amy.Gentile@cms.hhs.gov>; Gibson, Alexis (CMS/CMCS) <alexis.gibson@cms.hhs.gov>
Subject: RE: Deadline: Noon today NPRM slides for all state call.

Thanks for pulling this together, Laura.

Rory, how about:

(b)(5)

From: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>
Sent: Monday, May 1, 2023 9:04 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>
Cc: Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>; Gentile, Amy (CMS/CMCS) <Amy.Gentile@cms.hhs.gov>; Gibson, Alexis (CMS/CMCS) <alexis.gibson@cms.hhs.gov>
Subject: Deadline: Noon today NPRM slides for all state call.
Importance: High

Hi Rory,

I've been chatting with Anna B this morning; Dan provided handwritten edits to the slide deck for the all state call on 5/2; edits are due by **noon today**. There is a handwritten note – the best we can tell, says, "Connect with Rory note this as simply compliance with statute around hold harmless"

(b)(5)

(b)(5)

Not sure what to do with the bullet given the strikeouts; here is an idea, but open to other suggestions:

(b)(5)

Laura Snyder
(she/her/hers)
Technical Director
Division of Managed Care Policy
Centers for Medicaid and CHIP Services
Phone: 410-786-3198
Laura.Snyder1@cms.hhs.gov

Message

From: Tsai, Daniel (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/30/2023 12:48:37 PM
To: Katch (she/her), Hannah (CMS/OA) (b)(6)
(b)(6)
Subject: Re: Re: MO update - privileged/deliberative

Looks great to me thanks

From: Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>
Sent: Wednesday, March 29, 2023 8:28:54 PM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Subject: MO update - privileged/deliberative

See if this works.

Subject: Privileged – Update on Missouri

CC: Sam Bagenstos

Mr. Secretary,

(b)(5)

(b)(5)

From: (b)(6) Administrator (CMS/OA) (b)(6)
Sent: Wednesday, March 29, 2023 10:52 AM
To: Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>; Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>; Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>
Subject: RE: MO points

(b)(5)

From: Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>
Sent: Wednesday, March 29, 2023 10:30 AM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>; Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov> (b)(6)
(b)(6) Administrator (CMS/OA) (b)(6)
Subject: Re: MO points

Great. Dan, I'll send you a draft shortly.

From: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Sent: Wednesday, March 29, 2023 9:58:14 AM
To: Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>; Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>; (b)(6) Administrator (CMS/OA) (b)(6)
Subject: RE: MO points

(b)(5)

Thanks

From: Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>
Sent: Wednesday, March 29, 2023 9:37 AM
To: Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>; (b)(6) Administrator (CMS/OA)
(b)(6) Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Subject: RE: MO points

(b)(5)

From: Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 12:50 PM
To: (b)(6) Administrator (CMS/OA) (b)(6) Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Cc: Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>
Subject: RE: MO points

Yes, April 5th was Rachel's recommendation if possible.

From: (b)(6) Administrator (CMS/OA) (b)(6)
Sent: Tuesday, March 28, 2023 12:45 PM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Cc: Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>; Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>
Subject: RE: MO points

Which one, April 5th?

Chiquita Brooks-LaSure (she/her/hers)
CMS Administrator



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From: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 9:30 AM
To: (b)(6) Administrator (CMS/OA) (b)(6)
Cc: Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>; Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>
Subject: FW: MO points

Atty client

(b)(5)

Thanks

From: Tsai, Daniel (CMS/CMCS)
Sent: Tuesday, March 28, 2023 9:29 AM
To: Pryor, Rachel (HHS/OS/IOS) <Rachel.Pryor@hhs.gov>
Cc: Rodriguez, Paul (HHS/OGC) <PaulR.Rodriguez@hhs.gov>; Hoffman, Janice (HHS/OGC) <Janice.Hoffman@HHS.GOV>; Hannah Katch (CMS/OA) (hannah.katch@cms.hhs.gov) <hannah.katch@cms.hhs.gov>; Perrie Briskin (CMS/OA) (perrie.briskin@cms.hhs.gov) <perrie.briskin@cms.hhs.gov>; Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>
Subject: MO points

Hi Rachel –

(b)(5)

Thanks
-Dan

(b)(5)

(b)(5)

Message

From: Endelman (he/him), Jonathan (CMS/CMCS) (b)(6)
(b)(6)
Sent: 1/10/2023 7:47:24 PM
To: Boston, Beverly (CMS/CMCS) (b)(6)
(b)(6) Howe, Rory (CMS/CMCS)
(b)(6)
(b)(6) Fan, Kristin (CMS/CMCS)
(b)(6)
(b)(6) Arnold, Charlie
(CMS/CMCS) (b)(6)
(b)(6) Clark, Jennifer
(CMS/CMCS) (b)(6)
(b)(6) Goldstein, Stuart
(CMS/CMCS) (b)(6)
(b)(6) Cuno, Richard
(CMS/CMCS) (b)(6)
CC: (b)(6)
Maccarroll, Amber (CMS/CMCS) (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS) (b)(6)
(b)(6) adams, lia (CMS/CMCS)
(b)(6)
(b)(6)
Subject: RE: 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 we can't or shouldn't focus on anything other than the fact that hold harmless arrangements are against federal Medicaid law. They are, of course, but that is not the only motivating factor in issuing the CIB. They say we should cut any reference to the fact that halting these redistribution agreements could help providers with high Medicaid volume and that these financing mechanisms serve to take the focus away from quality health outcomes and towards who can finance the most money to minimize state expenditures while maximizing federal outlays. I think we should push back and say that issuing this CIB will be a positive for the transparency and improve the operation of the Medicaid program. However, I wanted to gauge the temperature of others to see how we wanted to approach this.

Best,

Jonathan

Jonathan Endelman
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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

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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>](mailto:Ingrid.Brentzel@cms.hhs.gov); Graham, John (CMS/CPI) [<John.Graham@cms.hhs.gov>](mailto:John.Graham@cms.hhs.gov); Wilson-Coe, Tomiko (CMS/CPI) [<Tomiko.Wilson-Coe@cms.hhs.gov>](mailto:Tomiko.Wilson-Coe@cms.hhs.gov); Allen, Nakia (CMS/CPI) [<nakia.allen-mcgee@cms.hhs.gov>](mailto:nakia.allen-mcgee@cms.hhs.gov); Ahmad, Namirah (CMS/CPI) [<Namirah.Ahmad@cms.hhs.gov>](mailto:Namirah.Ahmad@cms.hhs.gov); Barkai, Melissa (CMS/CPI) [<Melissa.Barkai@cms.hhs.gov>](mailto:Melissa.Barkai@cms.hhs.gov); Coates, Nikita (CMS/CPI) [<Nikita.Coates@cms.hhs.gov>](mailto:Nikita.Coates@cms.hhs.gov); Mitchell, Dashe (CMS/CPI) [<Dashe.Mitchell@cms.hhs.gov>](mailto:Dashe.Mitchell@cms.hhs.gov); Tott, Karen (CMS/CPI) [<Karen.Tott@cms.hhs.gov>](mailto:Karen.Tott@cms.hhs.gov); Stevenson, Bryant (CMS/CPI) [<bryant.stevenson@cms.hhs.gov>](mailto:bryant.stevenson@cms.hhs.gov); Oelschlaeger, Allison (CMS/OEDA) [<Allison.Oelschlaeger@cms.hhs.gov>](mailto:Allison.Oelschlaeger@cms.hhs.gov); Shatto, Andrew (CMS/OEDA) [<Andrew.Shatto@cms.hhs.gov>](mailto:Andrew.Shatto@cms.hhs.gov); Hitchcock, Katherine (CMS/OEDA) [<Katherine.Hitchcock@cms.hhs.gov>](mailto:Katherine.Hitchcock@cms.hhs.gov); Harper, Bernice (CMS/OEDA) [<Bernice.Harper@cms.hhs.gov>](mailto:Bernice.Harper@cms.hhs.gov); CMS Front Office - CCIIO Clearances [<FrontOffice-CCIIOClearances@cms.hhs.gov>](mailto:FrontOffice-CCIIOClearances@cms.hhs.gov); Wu (he/him), Jeff (CMS/CCIIO) [<Jeff.Wu@cms.hhs.gov>](mailto:Jeff.Wu@cms.hhs.gov); Wilson, Lisa (CMS/CCIIO) [<lisa.wilson@cms.hhs.gov>](mailto:lisa.wilson@cms.hhs.gov); Oconnor, Nancy (CMS/OPOLE) [<Nancy.OConnor@cms.hhs.gov>](mailto:Nancy.OConnor@cms.hhs.gov); Rosta (she/her), Sara (CMS/CCIIO) [<Sara.Rosta@cms.hhs.gov>](mailto:Sara.Rosta@cms.hhs.gov); Arapi, Leslie (CMS/OPOLE) [<Leslie.Arapi@cms.hhs.gov>](mailto:Leslie.Arapi@cms.hhs.gov); Frimpong, Janny (CMS/CCIIO) [<Janny.Frimpong@cms.hhs.gov>](mailto:Janny.Frimpong@cms.hhs.gov); Brooks, Kiahana (CMS/CCIIO) [<Kiahana.Brooks@cms.hhs.gov>](mailto:Kiahana.Brooks@cms.hhs.gov); 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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

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Message

From: Kimble, Davida (CMS/CMCS); (b)(6)
(b)(6)
Sent: 3/9/2023 5:21:10 PM
To: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6)
Subject: Automatic reply: Automatic reply: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

I will be out of the office for the remainder of the day March 7, 2023 through Friday March 10, 2023

Eric Powell will be acting Branch Manager in my absence for today through Thursday 3/9/23. If you need immediate assistance, please contact Eric @ Eric.Powell@cms.hhs.gov.

Virginia Brown will be acting Branch Manager in my absence for Friday 3/10/23. If you need immediate assistance, please contact Virginia @ Virginia.Brown@cms.hhs.gov.

Thank you
Davida Kimble
404-562-7496

Message

From: Holligan, Ricardo (CMS/CMCS); (b)(6)
(b)(6)
Sent: 3/9/2023 5:21:10 PM
To: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6)
Subject: Automatic reply: Automatic reply: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

I am on leave until March 9, 2023 . When I return I will respond to your email .

If you have an urgent matter, please contact Leticia Barraza
at Leticia.Barraza@cms.hhs.gov.

Thank you,

Ricardo

Message

From: Boston, Beverly (CMS/CMCS); (b)(6)
(b)(6)
Sent: 3/9/2023 5:21:10 PM
To: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6)
Subject: Automatic reply: Automatic reply: DUE 2PM TODAY: :TAXES HOLD HARMLESS CIB ROLLOUT ACTIONS

Hello,

I am currently out of the office and will respond to your inquiry when I return at 12:30pm EST today.

Thank you
Beverly Boston

Message

From: adams, lia (CMS/CMCS); (b)(6)
(b)(6)
Sent: 3/13/2023 3:18:31 PM
To: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6); Maccarroll, Amber
(CMS/CMCS); (b)(6)
(b)(6); Silanskis, Jeremy
(CMS/CMCS); (b)(6)
CC: (b)(6)
Boston, Beverly (CMS/CMCS); (b)(6)
(b)(6); Ferguson, Dorothy
(CMS/CMCS); (b)(6)
(b)(6); Curry, Celestine
(CMS/CMCS); (b)(6)
Subject: RE: RE: OGD Review Requested: March 22 - OA Issues

Thanks, Rory!

+ Dorothy/Celestine – here is what moved forward:

1. Missouri Deferral – Federal Reimbursement Allowance (FRA) Tax

CMCS will brief and seek concurrence from the Administrator on a recommended Missouri deferral related to the state's FRA tax. As part of the action plan to enforce compliance with non-federal share financing requirements in Missouri (previously briefed on May 26, 2022), CMCS conducted a focused review of Missouri's hospital tax, known as the 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, CMCS recommends issuing a deferral in the amount of approximately \$236,000,000 to temporarily hold 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.

- Decision deadline: March 20, 2023
- Briefer: Rory Howe, Director, Financial Management Group
- IRA-Related Policies: N/A

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Monday, March 13, 2023 11:15 AM
To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

The blurb is good. Thanks all!

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Sent: Monday, March 13, 2023 7:00 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>

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

Subject: OGD Review Requested: March 22 - OA Issues

Good morning Rory,

Please let me know when the March 22 - OA Issues blurb for the Missouri deferral is ready to be moved forward. It is **due NLT 11:45 AM today**.

Thank you Amber for drafting it!

Thanks,

Lia

Message

Sent: 3/28/2023 8:06:44 PM
To: Tsai, Daniel (CMS/CMCS) (b)(6)
CC: Costello, Anne Marie (CMS/CMCS) (b)(6); Stegmaier, Jason (CMS/CMCS) (b)(6); Stephens, Jessica (CMS/CMCS) (b)(6); Rashid, Mehreen (CMS/CMCS) (b)(6); Miller, Courtney (CMS/CMCS) (b)(6); Kochanski, Joseph (CMS/CMCS) (b)(6); Hebert, Krista (CMS/CMCS) (b)(6); Briskin, Perrie (CMS/CMCS) (b)(6); Silanskis, Jeremy (CMS/CMCS) (b)(6); Maccarroll, Amber (CMS/CMCS) (b)(6); Deboy, Alissa (CMS/CMCS) (b)(6); Giles, John (CMS/CMCS) (b)(6)
Subject: RE: RE: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

From: Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 1:46 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Stegmaier, Jason (CMS/CMCS) <Jason.Stegmaier@cms.hhs.gov>; Stephens, Jessica (CMS/CMCS) <Jessica.Stephens@cms.hhs.gov>; Rashid, Mehreen (CMS/CMCS) <mehreen.rashid@cms.hhs.gov>; Miller, Courtney (CMS/CMCS) <Courtney.Miller@cms.hhs.gov>; Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Deboy, Alissa (CMS/CMCS) <alissa.deboy1@cms.hhs.gov>; Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>
Subject: RE: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

We also provided technical assistance on the SDPs. We were clear that we are not commenting on the state's draft legislation, but providing technical assistance on the language we reviewed. The state's legislation does appear to authorize state directed payments based on historical utilization that will rely on interim payments and post-payment annual reconciliations. We provided technical assistance on the potential challenges of such an approach. As a reminder, such payment arrangements would be prohibited under our forthcoming proposed managed care rule (should it be finalized as proposed).

Please let me know if you need more on the SDPs. Thanks!

John Giles, MPA
Director, Division of Managed Care Policy
Disabled and Elderly Health Programs Group
Center for Medicaid and CHIP Services
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Phone: 410-786-5545
E-mail: John.Giles1@cms.hhs.gov

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 12:14 PM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Stegmaier, Jason (CMS/CMCS) <Jason.Stegmaier@cms.hhs.gov>; Stephens, Jessica (CMS/CMCS) <Jessica.Stephens@cms.hhs.gov>; Rashid, Mehreen (CMS/CMCS) <mehreen.rashid@cms.hhs.gov>; Miller, Courtney (CMS/CMCS) <Courtney.Miller@cms.hhs.gov>; Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Deboy, Alissa (CMS/CMCS) <alissa.deboy1@cms.hhs.gov>; Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>
Subject: RE: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

+ Alissa and John

Hi Dan,

When we talked with Sue and Charissa a couple of weeks ago, they assured us that they had no information or specific concerns about provider redistributions/hold harmless arrangements regarding their hospital tax. Accordingly, we simply provided some general guidance on the CIB/statutory requirements and offered TA. Sue and Charissa did have a number of questions about the state directed payment process and the 340B program. FMG connected Charissa with Alissa and John to assist with the follow up questions in those areas.

I hope this helps.

Thanks,
Rory

From: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 11:40 AM
To: Stephens, Jessica (CMS/CMCS) <Jessica.Stephens@cms.hhs.gov>; Rashid, Mehreen (CMS/CMCS) <mehreen.rashid@cms.hhs.gov>; Miller, Courtney (CMS/CMCS) <Courtney.Miller@cms.hhs.gov>; Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>; 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>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Stegmaier, Jason (CMS/CMCS) <Jason.Stegmaier@cms.hhs.gov>
Subject: RE: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

Adding FMG

The subject for the urgent call w Sue is "Policy Alignment for Safety Net Assessment"

Rory and FMG – I think I recall you recently had a discussion w WA... can you give us an update? I am chatting w Sue Birch this afternoon

Thanks

From: Stephens, Jessica (CMS/CMCS) <Jessica.Stephens@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 11:08 AM
To: Rashid, Mehreen (CMS/CMCS) <mehreen.rashid@cms.hhs.gov>; Miller, Courtney (CMS/CMCS) <Courtney.Miller@cms.hhs.gov>; Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>; Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Stegmaier, Jason (CMS/CMCS) <Jason.Stegmaier@cms.hhs.gov>
Subject: RE: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

This sounds more likely than unwinding. Suzette reached out to them yesterday to flag one more renewal compliance issue related to telephonic signatures, and they needed to implement a strategy for approval of their mitigation plan. However, they did that quickly, and we should be able to send an informal approval today.

From: Rashid, Mehreen (CMS/CMCS) <mehreen.rashid@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 9:36 AM
To: Miller, Courtney (CMS/CMCS) <Courtney.Miller@cms.hhs.gov>; Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>; Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Stephens, Jessica (CMS/CMCS) <Jessica.Stephens@cms.hhs.gov>; Stegmaier, Jason (CMS/CMCS) <Jason.Stegmaier@cms.hhs.gov>
Subject: RE: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

Good morning,

The Tribal concern is what comes to mind for SDG. WA is requesting approval for a Native Hub to provide HRSN services to AI/AN individuals. The services provided by the Native Hub would differ from those provided to other Medicaid beneficiaries. We told the state last week that OCR has raised concerns in other states about providing services to AI/AN individuals that differ from those provided to other beneficiaries. Washington said they disagree because of tribal sovereignty and want us to provide specific documentation of the OCR rules.

Of note, the state received approval in 2017 in its DSRIP program for Tribal specific projects administered by Indian Health Care Providers. The demonstration has a number of STCs documenting the approval. For example, "Consistent with the government-to-government relationship between the tribes and the State, tribes, IHCPs, or consortia of tribes and IHCPs can apply directly through the State to receive funding for eligible tribal specific projects."

Thank you!
Mehreen

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From: Miller, Courtney (CMS/CMCS) <Courtney.Miller@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 8:29 AM

To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>; Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Stephens, Jessica (CMS/CMCS) <Jessica.Stephens@cms.hhs.gov>; Rashid, Mehreen (CMS/CMCS) <mehreen.rashid@cms.hhs.gov>; Stegmaier, Jason (CMS/CMCS) <Jason.Stegmaier@cms.hhs.gov>
Subject: RE: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

+ Jason, who is coordinating any notes for you from the MCOG state team.

From: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Sent: Monday, March 27, 2023 7:57 PM
To: Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Stephens, Jessica (CMS/CMCS) <Jessica.Stephens@cms.hhs.gov>; Rashid, Mehreen (CMS/CMCS) <mehreen.rashid@cms.hhs.gov>; Miller, Courtney (CMS/CMCS) <Courtney.Miller@cms.hhs.gov>
Subject: FW: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

Joe - I could give her a call tmrw afternoon/evening while we're in car heading down from our Baltimore office to DC.
Joe – can you note for Michelle and find a 15 mins slot on the car tmrw afternoon for me to call Sue Birch - thanks

Jessica, Mehreen and Courtney – anything of note for WA on their 1115 or unwinding or anything else?

Thanks

From: Le Duc, Michelle (HCA) <michelle.leduc@hca.wa.gov>
Sent: Monday, March 27, 2023 7:38 PM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Cc: Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>
Subject: RE: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

Thank you. I am working on getting that to you as soon as possible. Joe has been helpful with identifying April 6th as an option. Sue mentioned it is urgent and asked if she could perhaps text with you instead?? She would just need a number. If you prefer, her cell is: (b)(6)

Appreciate your help.

Michelle Le Duc

Executive Secretary – Office of the Director
Assistant to Director Sue Birch
Office: 360-725-1040 | Cell: (b)(6)
Pronouns: she/her

Washington State
Health Care Authority

hca.wa.gov **Connect with us**

From: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Sent: Monday, March 27, 2023 4:17 PM
To: Le Duc, Michelle (HCA) <michelle.leduc@hca.wa.gov>
Cc: Kochanski, Joseph (CMS/CMCS) <Joseph.Kochanski@cms.hhs.gov>; Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>
Subject: RE: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

External Email

Hi Michelle – happy to. Cc'ing Joe (who can help schedule). We'd be grateful if you can send over for us a few quick bullets on the agenda/subject, if possible

Thanks

From: Le Duc, Michelle (HCA) <michelle.leduc@hca.wa.gov>
Sent: Monday, March 27, 2023 3:36 PM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Subject: Urgent call request from Director Birch and Medicaid Director Charissa Fotinos - WA State

Hi Mr. Tsai,

Sue and Charissa are hopeful to connect with you for approximately 30 minutes in the very near future. If possible may Sue Birch text you to align a time or would you be willing to work with myself or have me work with your Admin?

Thank you,

Michelle Le Duc

Executive Secretary – Office of the Director

Assistant to Director Sue Birch

Office: 360-725-1040 | Cell: (b)(6)

Pronouns: she/her

Washington State

Health Care Authority

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Message

From: Arnold, Charlie (CMS/CMCS); (b)(6)
(b)(6)
Sent: 3/9/2023 9:40:53 PM
To: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6)
Subject: FW: FW: Oregon and SOP
Attachments: Oregon Preprints for 2023 Hospital Directed Payment programs

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, March 7, 2023 10:28 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@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>; 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 and SOP

Hi Jonathan,

For Oregon, the attached email is what I am referencing – sorry if I forgot to attach it to the last email. It came in at 8pm last night eastern time. I appreciate all the work; the proposal I'm putting forward of approving the SDP with conditional language is not intended to stop work you all should do on the tax waiver. Right now, the pressure is to move on it quickly because provider are not getting this payment and the rates and contracts are on hold for this issue; I think that the conditional language approval of the SDP will relieve some but not all pressure so that you all can work through the tax issue with the state. The conditional language will still have some pressure for the state as we know they will be back in in October for a renewal of the payment arrangement for the next rating period. I also think the email from the state indicates that they are willing to continue to work on the issue with you all (though I do think they don't understand the issue).

Please let me know if there is anything more on OR that would be helpful to share.

As for the SOP, there is definitely more to talk through. We do have the rule back again for the final round of clearance before show stoppers, so maybe we can continue to discuss at the meeting on March 20. While the rule is proposing to make changes, those changes will not go into effect with the publication of the NPRM; I do think it is worth establishing a process now. We can then have a starting point for whatever gets finalized from the NPRM later.

Thanks,
Laura

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Tuesday, March 7, 2023 9:52 AM
To: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@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>; 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 and SOP

Laura,

Thanks for the info regarding Oregon. What email did you receive from the State? I am not sure I understand. We have a list of questions and regulatory citations on the meaning of inpatient hospital services and outpatient hospital services that we would like to send to Oregon. We have sent you the questions and citations. I am waiting on DFP Director approval before sending. Regarding taking a similar approach to Oregon, I will also convey your preferred approach to Division leadership and see what their preferred approach is.

Regarding the SOP more generally, all things being equal I would prefer for states with pending tax waivers or states with questionable financing that funds their state-directed payments to not have the state-directed payment approved before the financing is approved. However, we all know that these things can take a substantial amount of time and be messy. And we recognize that DMCP has an interest in processing these SDPs as quickly as possible. So we are aware that the financing issues can hold things up for a long period of time and that can be frustrating for all involved. To the extent that we can, I think we should communicate to states that it helps to get out in front of issues, like we are doing with Louisiana. For example, on the call yesterday the State mentioned that they had a "financing issue" and I was able to ask them immediately what financing issue. It ended up being nothing, but it's useful to know that ahead of time. It's always better to find out about things like that sooner rather than later, if possible well in advance.

In addition to the tax waiver mailbox, we are also rolling out a set of tax waiver best practices. If states give us the information that we need in the form that we need it and answer our questions when we ask them, we can be quite quick with our approvals. For example the state of Hawaii submitted their IP hospital tax waiver on February 3, 2023. It has been placed on FMG internal clearance tomorrow for Rory's approval and we expect it to be approved. It is our hope that the tax waiver best practices document will serve as a guidepost to states for submitting tax waivers and cut down on tax waiver analysis, processing, approval, and signature time. The proposal is currently under review at our office of the group director. As a way of further expediting the tax waiver approval process, we are taking to OCD this Thursday a delegation of signature authority proposal that will allow the division director of DFP to sign tax waivers. We anticipate that this will cut down on the time from when the tax waiver is approved at FMG internal clearance to when the state receives a signed tax waiver. If the tax waiver review time is cut down, this will make the process easier for you and for states that have tax waivers that are funded by SDPs and hopefully avoid the situation of approving an SDP with conditional language.

I think the situation, with regard to a tax waiver with questionable financing is a different matter. I concur that the best that we can do at this point is probably some combination of a companion letter and/or conditional language in the SDP approval letter. I would like to discuss in more detail the difference in between those two options I think this would all depend, obviously, on the level of information that we have and the evidence that we have regarding what is going on. We are currently working to schedule a meeting where we can discuss how we can treat similarly situated states with possible pooling and redistribution arrangements similar to the arrangements described in the CIB we released on

February 17, 2023, similarly. We refer to this approach as placing states in different “buckets” depending on how much information we have, what we know, and what is happening. I am also providing a training today both to the members of our Division of Reimbursement review as well as our tax team regarding the CIB and its implications. If you would like, we can schedule a separate presentation for DMCP or else I can invite you to one of the trainings today and you can invite whoever might benefit.. Once the managed care rule does go into effect, which as you say, would make clear that CMS can disapprove SDPs based on impermissible financing, I think we need to have a conversation about if and when we intend to use that authority. That conversation would probably be at the group director level. I am wondering, if the managed care rule goes into effect, and we are simultaneously working on the SOP, how those two things will relate to one another. Obviously, we are in a different world after the rule goes into effect than before as it relates to financing for SDPs. So I am not sure if it makes sense to do an SOP based on one set of expectations and rules, then have the rule go into effect, and then need to go back and revise that SOP. We should discuss this.

Regarding the general approach of conditional language for SOPs, companion letters, and whatever other options that we have, I think that it would make sense to bring this issue to FMG group leadership. We could ask them what their preference would be in two situations: one, for tax waivers that are still under review that fund SDPs, and two for SDPs with taxes that have possible hold harmless concerns. We could ask them if their preferred approach would change before or after the effective date of the managed care rule if it is finalized as proposed. And we could ask them their thoughts, if we do have the authority to disapprove SDPs based on impermissible financing, how we can work with DMCP to determine when and how we can and should use that authority. Our OGC might be good to have on these calls as well as this is, after all, a legal question at the end of the day.

Once we bring these questions to our group leadership, we can report back to you on their preferences. Of course, we can also invite you and anyone else from DMCP who wants to join to the call when we discuss these issues with our group leadership. They are important ones, obviously, with great consequences for the oversight and operation of the Medicaid program, so I think that having group leadership input is essential in this regard.

Please let us know if you have any questions or concerns, or would like to schedule a call separate from the SOP call to discuss anything raised in this email.

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: Tuesday, March 7, 2023 9:15 AM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS)

<Charlie.Arnold@cms.hhs.gov>

Subject: Oregon and SOP

Hi Jonathan,

Thank you for following up so quickly **on North Carolina** – we will begin moving that ahead to approval as we discussed already with the conditional language – thanks!!

On Oregon, we understand that the issue uncovered during the SDP review is likely to take more time and you all need more information from the state first. We have received last night the following email from the state. They have not been issuing these payments to their hospitals, including CAHs. We do believe that the best path forward is to issue conditional approval letters of the SDPs; allowing you all to continue working with the state on the underlying issue with the tax waiver. The conditional language could be exactly the same as we are doing for NC:

“This approval letter does not constitute approval of any Medicaid managed care plan contracts or rate certifications for the aforementioned rating period(s), or any specific Medicaid financing mechanism used to support the provider payment arrangement. All other federal laws and regulations apply. This approval letter only satisfies the regulatory requirement pursuant to 42 CFR 438.6(c)(2) for written approval prior to implementation of any payment arrangement described in 42 CFR 438.6(c)(1). Approval of the corresponding Medicaid managed care plan contracts and rate certifications is still required.

As part of the review process for state directed payments, CMS has become aware of some concerns with the state’s underlying tax waiver that funds the non-federal share of this state directed payment. As a reminder, all federal requirements concerning the non-federal share contribution and financing requirements apply to all Medicaid expenditures regardless of delivery system. CMS is able to approve this preprint with the condition that the state continue working with CMS on resolving any concerns with the underlying tax waiver before CMS will issue prior approval of any future preprints for this payment arrangement in any subsequent rating period(s). Please contact [insert appropriate contact] if the state requires technical assistance.”

On the SOP at large, I think that in the past, we have had success with states in adding conditional language to approval letters. We have employed this strategy around ACR analyses; when states have had challenges providing the ACR analysis at the provider class and service level that we request from state’s today, we include conditional language like that below.

“As part of the review process for state directed payments, CMS has required states to demonstrate that the state directed payments result in provider payment rates that are reasonable, appropriate, and attainable. To do this, CMS has required an analysis from states to understand the relative effect of the state directed payment(s) on reimbursement for each service type and each provider class receiving the state directed payment(s) using a standard measure such as Medicare, Medicaid state plan FFS rates, or Average Commercial Rate (ACR). CMS appreciates the information that New York provided in the preprint comparing reimbursement to estimated benefit expenses for residential services. CMS is able to approve this preprint with the condition that the state provide a more robust analysis should the state pursue this payment arrangement in a subsequent rating period. Please contact statedirectedpayment@cms.hhs.gov if the state requires technical assistance.”

We pair that strategy with an offer for TA, which states generally take up. We now have monthly calls with LA, biweekly calls with NY and did so with MS in the lead up to their most recent submission; the strategy has been successful in getting better data from states.

It also is similar to a strategy we used with Rhode Island and New Hampshire in the past, both of which had long-standing issues with their provider taxes. After obtaining a commitment from the states, we approved the SDPs and issued companion letters that you all drafted outlining the concerns with the underlying taxes. I believe in both cases, the states have now resolved the underlying concerns with those financing sources.

With the rule, we are moving to where we will have better legal footing to deny SDPs generally, on financing grounds as well as others. Those rules are obviously would still need to go out for public comment and then be finalized, etc. In the interim, I think that we can use the approach outlined earlier; if a state comes in for renewal after the approval letter has been issued with conditional language about an underlying financing issue (like a tax waiver) and the state hasn’t

made progress on addressing the issue, then I think we would suggest bringing it to a clearance meeting with OCD to determine next steps.

I know we have the SOP meeting now scheduled for March 20; we will prep up a document for that meeting that will lay this out that I think, once we have agreement at a staff level, we can raise up our respective chains for sign off.

Does that approach seem workable for you all?

Thanks,
Laura

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Monday, March 6, 2023 8:24 AM
To: Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>
Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

Laura,

Thank you for the summary and for your request. I am raising this issue up to my Division leadership. My understanding is that there are three SDPs in two states that have been held up on the basis of financing. One is NC_Fee_OPH_Renewal_20220701-20230630, one is OR: Tax Waiver for OR_Fee_IPH.OPH1, and one is OR_Fee_IPH.OPH2 renewals.

Regarding North Carolina, we had a discussion with Rory on March 1, 2023 and he indicated, like you have in the past, that the current North Carolina pre-print that is on hold due to financing concerns is not the one about which we have possible hold harmless concerns. As you know, we are still working through questions on the North Carolina tax waiver. I would like to send the following attached questions to North Carolina on their tax waiver and I am waiting on clearance from Branch leadership and Division leadership to do so. These are questions that we need answers to before approving the tax waiver that North Carolina sent us.

Regarding Oregon, we plan on sending Oregon an email containing the following information:

1. Regulatory definition on inpatient hospital services and outpatient hospital services
2. Asking Oregon on what line they are claiming expenditures for the two excluded facilities on the form CMS-64. We often look at this to determine what class a facility should be in for purposes of health care-related taxes if there is a question about that.
3. The state plan pages that describe how these facilities are reimbursed. For similar rationale as the prior point.
4. Are there other rehab hospitals or psychiatric hospitals that the state of Oregon does not include in its IP and OP hospital services taxes or are these the only two such facilities?

I am optimistic that the North Carolina issue can be resolved in somewhat shorter order, especially because the potential hold harmless issues do not appear to apply to this specific pre-print. Regarding Oregon, I believe that this may end up being a long, complicated, drawn out, and potentially contentious issue.

I will raise the approach that you suggested to my branch and division leadership. If necessary, we will also raise to our group leadership. I think that having a standard operating procedure when it comes to issues such as this would be beneficial. With regard to the conditional language, I think we would like to see a written statement from DMCP

regarding what would occur if a state promised to fix a certain financing issue and failed to do so when they submitted a subsequent pre-print funded by the same source. These are hard issues, and we appreciate your continued support and partnership. I also look forward to working some of the details of these issues out in our SOP discussions.

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: Wednesday, March 1, 2023 4:35 PM

To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

Hi Jonathan,

Thank you for the discussion at the tax meeting today. In alignment with the discussion we had on Oregon, DMCP would prefer to move ahead with approval of this SDP. This is a long-standing SDP. It is a renewal that was submitted in April 2022. All other aspects of this review have concluded and it is otherwise ready for approval. From the discussions and the question sets, it is clear that there is significant work to do with the state on cleaning up their tax waivers. We appreciate and support your team's work to identify and correct the underlying issue with the state's tax waiver that was originally approved in 2012.

Given that this payment arrangement is a renewal of an existing payment arrangement, we believe the most prudent measure would be to include conditional language in the SDP approval letter about the concerns related to the provider tax that we'd like to work with FMG on crafting and setting an expectation for the state to continue working on this issue.

DMCP will plan to move ahead with the proposed approach next week. Please let us know by **COB, 3/9** if you all have significant concerns with this approach.

Thanks,
Laura

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

Sent: Tuesday, February 28, 2023 4:28 PM

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

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

<Donald.Graves@cms.hhs.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

Laura,

I think that the SDP approach you outlined is my understanding as well. I do not believe that we have received final confirmation from Rory on this point. In addition to the hold harmless concerns, we have separate concerns with the state's tax waiver request. For one, it appears as though North Carolina is charging a different tax rate for each quarter and then taking the average of all of those rates and saying that is what they are taxing hospitals. However, that is not the case. It is an average of what they are taxing the hospitals. Every time the state makes a non-uniform change to its tax rates, they must apply for a new tax waiver. I do not believe the state can do what they appear to be doing within a single tax waiver. I can forward you the appointment to our tax meeting if that would be helpful.

Best,

Jonathan

Jonathan Endelman, PhD
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
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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: Tuesday, February 28, 2023 4:24 PM

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

Cc: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

Pulling off the state.

I wanted to check – I understand that there are concerns with the information collected and how it is captured in their tax waiver. My understanding that I wanted to check with you all since you are meeting on this tomorrow is that the companion letter noting the hold harmless concern could be issued with the approval of the SDP while you all continue to work with the state to better document and appropriately seek waiver authority for the changes to their tax waiver separately and apart from the SDP review. In other words, the SDP approval would not need to be held until the tax waiver was updated and approved by you all. Does that match? If not, I do think we in DMCP would have significant concerns with such an approach as this SDP has been pending since last April for a contract rating period that is soon ending.

Thanks,
Laura

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Tuesday, February 28, 2023 4:04 PM
To: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Williams, Cecilia <cecilia.williams@dhhs.nc.gov>
Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>
Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

Hello Ms. Staton,

This is Jonathan Endelman from the CMS tax team. We are reviewing the state's tax waiver. We have reviewed the information provided by North Carolina and we do have several questions for the state regarding its tax waiver. We will meet as a team tomorrow to finalize them and we should have something for you then. 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: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>
Sent: Tuesday, February 28, 2023 3:10 PM
To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Williams, Cecilia <cecilia.williams@dhhs.nc.gov>
Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>
Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

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Hi Lovie,

Are there any questions that CMS has for the state regarding the preprint?

Thanks,

Betty J. Staton, MBA
State Plan and Amendments Manager

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

Sent: Thursday, February 2, 2023 12:11 PM

To: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>; Williams, Cecilia <cecilia.williams@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

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Good Afternoon Betty,

Thank you for your email. CMS acknowledges receipt of the state's responses and documentation. We will follow up with any additional questions after review.

Thank you,
Lovie

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

Sent: Thursday, February 2, 2023 11:34 AM

To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Williams, Cecilia <cecilia.williams@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

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Hi Lovie,

Please see attached the requested information. Thanks again for the extension.

Betty J. Staton, MBA

State Plan and Amendments Manager
NC Medicaid (Benefits and Services)
Mobile: (b)(6)

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From: Staton, Betty J

Sent: Monday, January 23, 2023 11:58 AM

To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Williams, Cecilia
<cecilia.williams@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

Thanks so much Lovie.

Betty Jenkins Staton, MBA

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

Mobile: (b)(6)
Office: 919-527-7093



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

Sent: Monday, January 23, 2023 11:56 AM

To: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>; Williams, Cecilia <cecilia.williams@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; CMS State Directed

Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

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Hi Betty,

Thank you for your email. An extension until February 3, 2023 is fine.

Thanks,
Lovie

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

Sent: Saturday, January 21, 2023 4:49 PM

To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Williams, Cecilia
<cecilia.williams@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

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Hi Lovie,

We are requesting extension until 2/3/23 as staff working on the answers will be out of office.

Thanks,

Betty J. Staton, MBA

State Plan and Amendments Manager

NC Medicaid (Benefits and Services)

Mobile (b)(6)

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From: Staton, Betty J

Sent: Wednesday, January 18, 2023 5:54 PM

To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Williams, Cecilia
<cecilia.williams@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS)

<STUART.GOLDSTEIN@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

Hi Lovie,

Acknowledging receipt.

Thanks,

Betty J. Staton, MBA

State Plan and Amendments Manager

NC Medicaid (Benefits and Services)

Mobile (b)(6)

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

Sent: Wednesday, January 18, 2023 4:41 PM

To: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>; Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graeves@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

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Good Afternoon Cecilia and Betty,

Please find attached questions regarding North Carolina's tax statistical test and hold harmless arrangement. Please provide responses by January 30, 2023 if possible.

Thank you,
Lovie

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

Sent: Thursday, December 15, 2022 11:16 AM

To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graeves@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

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Thanks, Lovie!

This update is appreciated.

Cecilia Williams

State Plan and Amendments Coordinator

NC Medicaid

Division of Health Benefits

NC Department of Health and Human Services



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820 S. Boylan Ave., McBryde Building

1950 Mail Service Center

Raleigh, NC 27699-1950

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

Sent: Thursday, December 15, 2022 11:13 AM

To: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>; Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graeves@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

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Hi Cecilia,

Thank you for your email. Follow up questions regarding the preprint are being finalized and will be issued to the state. If you have any additional questions please let us know.

Thanks,
Lovie

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

Sent: Tuesday, December 13, 2022 1:28 PM

To: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

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Hi Lovie!

We hope all is well. Are there any updates on the Submission mentioned below or is there any additional information needed from the state at this time?

Thanks so much!

Cecilia Williams

State Plan and Amendments Coordinator

NC Medicaid

Division of Health Benefits

NC Department of Health and Human Services



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820 S. Boylan Ave., McBryde Building

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Raleigh, NC 27699-1950

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

Sent: Monday, November 28, 2022 11:25 AM

To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Williams, Cecilia <cecilia.williams@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

Hi Lovie,

Thanks for the acknowledgment.

Betty Jenkins Staton, MBA

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

Mobile: (b)(6)

Office: 919-527-7093



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

Sent: Monday, November 28, 2022 11:23 AM

To: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>; Williams, Cecilia <cecilia.williams@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

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Hi Betty,

Thank you for your email. The state's submission is being reviewed by the CMS Financial Management Group. We will check the status and follow up with the state.

Thank you,
Lovie

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

Sent: Tuesday, November 22, 2022 1:55 PM

To: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; Davis, Lovie (CMS/CMCS) <Lovie.Davis@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

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Good afternoon,

Does CMS need additional information regarding this submission?

Thanks,

Betty J. Staton, MBA
State Plan and Amendments Manager
NC Medicaid (Benefits and Services)
Mobile: (b)(6)

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

Sent: Thursday, October 6, 2022 7:22 AM

To: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; Davis, Lovie (CMS/CMCS) <Lovie.Davis@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

Good morning,

Attached are two submissions, recognizing different CMS areas of responsibility.

1. Standard submission to CMS for the Hospital Tax Waiver request. This is pursuant to CMS guidance in their communication on September 13, 2022 as part of this subject preprint. This submission should include:
 - a. Provider Tax Waiver Letter (pdf)
 - b. NC B1 / B2 Test (Excel)
 - c. NCGS 108a, Article 7B (pdf)
2. Secondly, the same three documents plus the response to the Round 4 Questions (Word) for the Preprint Team.

Thanks,

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



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Cecilia.Williams@dhhs.nc.gov

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

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

Sent: Thursday, September 22, 2022 3:08 PM

To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Williams, Cecilia
<cecilia.williams@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Bush,
Melanie E <melanie.bush@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

Thanks Lovie, we appreciate it.

Betty J. Staton, MBA

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

Mobile: (b)(6)

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

Sent: Thursday, September 22, 2022 2:33 PM

To: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>; Williams, Cecilia <cecilia.williams@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Bush,
Melanie E <melanie.bush@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; CMS State Directed
Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

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

Good Afternoon Betty,

An extension until October 3, 2022 is granted.

Thank you,
Lovie

From: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>
Sent: Thursday, September 22, 2022 12:59 PM
To: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Dawson, Rick (CMS/CMCS) <Rick.Dawson@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Bush, Melanie E <melanie.bush@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>
Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

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Hi Lovie,

We are requesting an extension until 10/3/22 to submit responses.

Thanks,

Betty J. Staton, MBA
State Plan and Amendments Manager
NC Medicaid (Benefits and Services)
Mobile: (b)(6)

**DON'T WAIT
TO VACCINATE.**

Find a vaccine location near you at
MySpot.nc.gov or call 888-675-4567.



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

From: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>
Sent: Tuesday, September 13, 2022 1:52 PM
To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>
Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Dawson, Rick (CMS/CMCS) <Rick.Dawson@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Bush, Melanie E <melanie.bush@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>
Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

Hi, Lovie!

This has been received and will be shared with the NC teams.

Thanks,

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

Sent: Tuesday, September 13, 2022 1:49 PM

To: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>; Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Dawson, Rick (CMS/CMCS)

<Rick.Dawson@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Bush, Melanie E

<melanie.bush@dhhs.nc.gov>; Abbott, Sarah (CMS/CMCS) <Sarah.Abbott@cms.hhs.gov>; CMS State Directed Payment

<StateDirectedPayment@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

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Good Afternoon,

Please find attached CMS' Round 4 questions and corresponding documents regarding this preprint. Please provide responses by September 23, 2022 if possible. If you have any questions please let us know.

Thank you,

Lovie

From: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Sent: Wednesday, August 31, 2022 1:13 PM
To: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>; Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>
Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Dawson, Rick D.(CMS/CMCS) <Rick.Dawson@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Bush, Melanie E <melanie.bush@dhhs.nc.gov>; Kahnowitz, Michael (CMS/CMCS) <Michael.Kahnowitz@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>
Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

Good Afternoon Cecelia,

CMS acknowledges receipt of the state's responses and corresponding document.

Thank you,
Lovie

From: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>
Sent: Friday, August 26, 2022 10:48 AM
To: Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Davis, Lovie (CMS/CMCS) <Lovie.Davis@cms.hhs.gov>
Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Dawson, Rick D.(CMS/CMCS) <Rick.Dawson@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Bush, Melanie E <melanie.bush@dhhs.nc.gov>; Kahnowitz, Michael (CMS/CMCS) <Michael.Kahnowitz@cms.hhs.gov>
Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

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Good morning, everyone!

Please see the attached from the state. Once again, thanks for the extension.

Cecilia Williams
State Plan and Amendments Coordinator
NC Medicaid
Division of Health Benefits
[NC Department of Health and Human Services](mailto:Cecilia.Williams@dhhs.nc.gov)



Vax Up OR **Mark 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

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

Sent: Thursday, August 18, 2022 3:46 PM

To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Williams, Cecilia <cecilia.williams@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Dawson, Rick D.(CMS/CMCS) <Rick.Dawson@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Bush, Melanie E <melanie.bush@dhhs.nc.gov>; Kahnowitz, Michael (CMS/CMCS) <Michael.Kahnowitz@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

Thanks Lovie.

Betty J. Staton, MBA
State Plan and Amendments Manager
NC Medicaid (Benefits and Services)
Mobile: (b)(6)

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TO VACCINATE.**

Find a vaccine location near you at
MySpot.nc.gov or call 888-675-4567.



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

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

Sent: Thursday, August 18, 2022 3:41 PM

To: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>; Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Dawson, Rick D.(CMS/CMCS) <Rick.Dawson@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Bush, Melanie E <melanie.bush@dhhs.nc.gov>; Kahnowitz, Michael (CMS/CMCS) <Michael.Kahnowitz@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

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Hi Cecilia,

Thank you for your email. An extension until 8/26 is fine.

Thank you,
Lovie

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

Sent: Thursday, August 18, 2022 2:33 PM

To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Dawson, Rick D.(CMS/CMCS) <Rick.Dawson@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Bush, Melanie E <melanie.bush@dhhs.nc.gov>; Kahnowitz, Michael (CMS/CMCS) <Michael.Kahnowitz@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

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Hi Lovie!

Our team need additional time to submit the questions mentioned below and would like to request an extension until 8/26.

Please advise if this is acceptable.

Thanks,

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

Sent: Friday, August 12, 2022 11:31 AM

To: Williams, Cecilia <cecilia.williams@dhhs.nc.gov>; Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Dawson, Rick D.(CMS/CMCS) <Rick.Dawson@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Bush, Melanie E <melanie.bush@dhhs.nc.gov>; Kahnowitz, Michael (CMS/CMCS) <Michael.Kahnowitz@cms.hhs.gov>; CMS State

Directed Payment <StateDirectedPayment@cms.hhs.gov>

Subject: RE: [External] NC_Fee_OPH_Renewal_20220701-20230630

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Hi Cecilia,

Please find attached CMS' Round 3 questions and corresponding documents regarding this preprint. Please provide responses by August 22, 2022 if possible. If you have any questions please let us know.

Thank you,
Lovie

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

Sent: Monday, July 18, 2022 1:41 PM

To: CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Staton, Betty J <Betty.J.Staton@dhhs.nc.gov>

Cc: Graves, Donald (CMS/CMCS) <Donald.Graves@cms.hhs.gov>; Dawson, Rick D.(CMS/CMCS)

<Rick.Dawson@cms.hhs.gov>; Sandoe, Emma <Emma.Sandoe@dhhs.nc.gov>; Bush, Melanie E

<melanie.bush@dhhs.nc.gov>; Kahnowitz, Michael (CMS/CMCS) <Michael.Kahnowitz@cms.hhs.gov>

Subject: RE: [External] RE: NC_Fee_OPH_Renewal_20220701-20230630

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Hi All,

Please find the attached from the NC team.

Thanks so much!

Cecilia Williams

State Plan and Amendments Coordinator

NC Medicaid

Division of Health Benefits

NC Department of Health and Human Services



Vax Up



Mask Up

Find a vaccine location, get questions answered and more at <a

href="https://urldefense.com/v3/__https://gcc02.safelinks.protection.outlook.com/?url=https*3A*2F*2Furldefense.com*2Fv3*2F__https*3A*2Fgcc02.safelinks.protection.outlook.com*2F*3Furl*3Dhttps*3A*2F*2Furldefense.com*2Fv3*2F__https*3A*2Fgcc02.safelinks.protection.outlook.com*2F*3Furl*3Dhttps*3A*2F*2Furldefense

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Message

From: HITTLE Dana [Dana.HITTLE@oha.oregon.gov]
Sent: 3/7/2023 1:06:08 AM
To: CMS State Directed Payment [statedirectedpayment@cms.hhs.gov]
CC: Baden David [DAVID.BADEN@oha.oregon.gov]; Lyons Connor [Connor.Lyons@oha.oregon.gov]; Evans Janell R [JANELL.R.EVANS@oha.oregon.gov]; Wunderbro Thomas [THOMAS.WUNDERBRO@oha.oregon.gov]; Ranzoni Steven [STEVEN.RANZONI@dhs.oregon.state.or.us]; WYNIA Angel [Angel.WYNIA@oha.oregon.gov]; Grussing Jay D [JAY.D.GRUSSING@oha.oregon.gov]
Subject: Oregon Preprints for 2023 Hospital Directed Payment programs

SECURE EMAIL DELIVERY: This email message was securely transmitted from a sender at Oregon ODH/OSHA to your email system using Transport Layered Security (TLS).

Hello,

Oregon is reaching out to proactively confirm our commitment to working with CMS to continually improve our Hospital State Directed Payment programs. Following the initial approval of these programs in 2018, Oregon has produced and submitted the documentation required for CMS's annual reviews, and we intend to continue to do so even as we learn about how some program requirements will be applied to our state.

Oregon relies on these programs to support services to Medicaid enrollees throughout our state, including underserved, rural areas, and critical access hospitals. Hospital operations in these areas have been without the benefit of \$100 million in funds typically distributed in January and February each year following CMS's program approval. We are interested in doing everything we can to resume program activities if there are no approvability issues.

We have learned through the review process that there may be concerns with how we have previously documented the program impact in two locations, and whether those locations meet the definition of the hospital provider class in each program. We are committed to continuing to provide all documentation that CMS would request under program approval, and we request that CMS consider issuing conditional program approvals that would allow us to resume program operations while CMS considers any additional documentation requests.

Thanks for your consideration!

Sincerely,
Dana

Dana Hittle
Medicaid Director
OREGON HEALTH AUTHORITY
Health Systems Division
dana.hittle@oha.oregon.gov
Cell: (b)(6)
<http://www.oregon.gov/OHA>

Janine Stephens, Executive Assistant | (cell) 503-428-0643 | e-mail:
Janine.I.stephens@oha.oregon.gov

Message

From: Tsai, Daniel (CMS/CMCS); (b)(6)
(b)(6)

Sent: 3/28/2023 12:29:35 AM

To: Mannchen, Garrett (HHS/OGC) [Garrett.Mannchen@hhs.gov]; Rodriguez, Paul (HHS/OGC)
(b)(6) Hoffman, Janice
(HHS/OGC); (b)(6)
(b)(6) Vogel, Jeremy (HHS/OGC)
(b)(6) Costello, Anne Marie
(CMS/CMCS); (b)(6)
(b)(6) Howe, Rory
(CMS/CMCS); (b)(6)
(b)(6) Katch (she/her), Hannah
(CMS/OA); (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS); (b)(6)
(b)(6) Briskin, Perrie
(CMS/CMCS); (b)(6)
(b)(6)

CC: Vitolo, Sara (CMS/CMCS); (b)(6)
(b)(6) Hebert, Krista
(CMS/CMCS); (b)(6)
(b)(6)

Subject: MO follow up

Atty client / privileged and confidential

(b)(5)

(b)(5)

Message

From: Tsai, Daniel (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/28/2023 1:30:07 PM
To: (b)(6) Administrator (CMS/OA) (b)(6)
(b)(6)
CC: Ellis (she/her), Kyla (CMS/OA) (b)(6)
(b)(6) Hannah Katch (CMS/OA)
(hannah.katch@cms.hhs.gov) (b)(6)
(b)(6)
Subject: FW: FW: MO points

Atty client

(b)(5)

Thanks

From: Tsai, Daniel (CMS/CMCS)
Sent: Tuesday, March 28, 2023 9:29 AM
To: Pryor, Rachel (HHS/OS/IOS) <Rachel.Pryor@hhs.gov>
Cc: Rodriguez, Paul (HHS/OGC) <PaulR.Rodriguez@hhs.gov>; Hoffman, Janice (HHS/OGC) <Janice.Hoffman@HHS.GOV>; Hannah Katch (CMS/OA) (hannah.katch@cms.hhs.gov) <hannah.katch@cms.hhs.gov>; Perrie Briskin (CMS/OA) (perrie.briskin@cms.hhs.gov) <perrie.briskin@cms.hhs.gov>; Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>
Subject: MO points

Hi Rachel –

(b)(5)

Thanks
-Dan

(b)(5)

(b)(5)

Message

From: Tsai, Daniel (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/30/2023 1:16:24 PM
To: Katch (she/her), Hannah (CMS/OA) (b)(6)
(b)(6)
Subject: Re: Re: MO update - privileged/deliberative

Looks great to me thanks

(b)(5)

Thanks

From: Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>
Sent: Wednesday, March 29, 2023 8:28:54 PM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Subject: MO update - privileged/deliberative

See if this works.

Subject: Privileged – Update on Missouri

CC: Sam Bagenstos

Mr. Secretary,

(b)(5)

(b)(5)

Please let me know if any additional information would be helpful.

From: (b)(6) Administrator (CMS/OA) (b)(6)
Sent: Wednesday, March 29, 2023 10:52 AM
To: Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>; Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>; Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>
Subject: RE: MO points

(b)(5)

From: Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>
Sent: Wednesday, March 29, 2023 10:30 AM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>; Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov> (b)(6)
(b)(6) Administrator (CMS/OA) (b)(6)
Subject: Re: MO points

Great. Dan, I'll send you a draft shortly.

From: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Sent: Wednesday, March 29, 2023 9:58:14 AM
To: Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>; Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov> (b)(6) Administrator (CMS/OA) (b)(6)
Subject: RE: MO points

(b)(5)

Thanks

From: Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>
Sent: Wednesday, March 29, 2023 9:37 AM
To: Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov> (b)(6) Administrator (CMS/OA) (b)(6) Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Subject: RE: MO points

(b)(5)

From: Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>

Sent: Tuesday, March 28, 2023 12:50 PM

To: (b)(6) Administrator (CMS/OA); (b)(6) Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>

Cc: Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>

Subject: RE: MO points

Yes, April 5th was Rachel's recommendation if possible.

From: (b)(6) Administrator (CMS/OA); (b)(6)

Sent: Tuesday, March 28, 2023 12:45 PM

To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>

Cc: Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>; Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>

Subject: RE: MO points

Which one, April 5th?

Chiquita Brooks-LaSure (she/her/hers)

CMS Administrator



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From: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>

Sent: Tuesday, March 28, 2023 9:30 AM

To: (b)(6) Administrator (CMS/OA); (b)(6)

Cc: Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>; Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>

Subject: FW: MO points

Atty client

(b)(5)

Thanks

From: Tsai, Daniel (CMS/CMCS)

Sent: Tuesday, March 28, 2023 9:29 AM

To: Pryor, Rachel (HHS/OS/IOS) <Rachel.Pryor@hhs.gov>

Cc: Rodriguez, Paul (HHS/OGC) <PaulR.Rodriguez@hhs.gov>; Hoffman, Janice (HHS/OGC) <Janice.Hoffman@HHS.GOV>; Hannah Katch (CMS/OA) (hannah.katch@cms.hhs.gov) <hannah.katch@cms.hhs.gov>; Perrie Briskin (CMS/OA) (perrie.briskin@cms.hhs.gov) <perrie.briskin@cms.hhs.gov>; Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>
Subject: MO points

Hi Rachel –

(b)(5)

Thanks
-Dan

(b)(5)

(b)(5)

Message

From: Tsai, Daniel (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/29/2023 1:58:14 PM
To: Ellis (she/her), Kyla (CMS/OA) (b)(6)
(b)(6); Katch (she/her), Hannah
(CMS/OA) (b)(6)
(b)(6)
Administrator (CMS/OA) (b)(6)
(b)(6)
Subject: RE: RE: MO points

(b)(5)

Thanks

From: Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>
Sent: Wednesday, March 29, 2023 9:37 AM
To: Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>; (b)(6) Administrator (CMS/OA)
(b)(6); Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Subject: RE: MO points

(b)(5)

From: Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 12:50 PM
To: (b)(6) Administrator (CMS/OA) (b)(6) Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Cc: Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>
Subject: RE: MO points

Yes, April 5th was Rachel's recommendation if possible.

From: (b)(6) Administrator (CMS/OA) (b)(6)
Sent: Tuesday, March 28, 2023 12:45 PM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Cc: Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>; Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>
Subject: RE: MO points

Which one, April 5th?

Chiquita Brooks-LaSure (she/her/hers)
CMS Administrator



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From: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Sent: Tuesday, March 28, 2023 9:30 AM
To: (b)(6), Administrator (CMS/OA) <(b)(6)>
Cc: Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>; Katch (she/her), Hannah (CMS/OA) <Hannah.Katch@cms.hhs.gov>
Subject: FW: MO points

Atty client

(b)(5)

Thanks

From: Tsai, Daniel (CMS/CMCS)
Sent: Tuesday, March 28, 2023 9:29 AM
To: Pryor, Rachel (HHS/OS/IOS) <Rachel.Pryor@hhs.gov>
Cc: Rodriguez, Paul (HHS/OGC) <PaulR.Rodriguez@hhs.gov>; Hoffman, Janice (HHS/OGC) <Janice.Hoffman@HHS.GOV>; Hannah Katch (CMS/OA) (hannah.katch@cms.hhs.gov) <hannah.katch@cms.hhs.gov>; Perrie Briskin (CMS/OA) (perrie.briskin@cms.hhs.gov) <perrie.briskin@cms.hhs.gov>; Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>
Subject: MO points

Hi Rachel –

(b)(5)

Thanks

-Dan

(b)(5)

(b)(5)

Message

From: Tsai, Daniel (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/28/2023 1:29:08 PM
To: Pryor, Rachel (HHS/OS/IOS); (b)(6)
(b)(6)
CC: Rodriguez, Paul (HHS/OGC); (b)(6)
(b)(6) Hoffman, Janice
(HHS/OGC); (b)(6)
(b)(6); Hannah Katch (CMS/OA)
(hannah.katch@cms.hhs.gov); (b)(6)
(b)(6) Perrie Briskin (CMS/OA)
(perrie.briskin@cms.hhs.gov) [perrie.briskin@cms.hhs.gov]; Ellis (she/her), Kyla (CMS/OA)
(b)(6)
Subject: MO points

Hi Rachel –

(b)(5)

Thanks
-Dan

(b)(5)

(b)(5)

Message

From: Tsai, Daniel (CMS/CMCS) (b)(6)
(b)(6)
Sent: 4/12/2023 1:54:21 AM
To: Melanie Nathanson [mnathanson@n-hdc.com]
Subject: RE: RE: Action Alert: DPP Dear Colleague

Thanks

From: Melanie Nathanson <mnathanson@n-hdc.com>
Sent: Tuesday, April 11, 2023 9:52 PM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Subject: FW: Action Alert: DPP Dear Colleague

FYSA

WARNING: This email originated outside of BayCare. BE CAUTIOUS clicking links and opening attachments. Use the Report Phishing and Spam button to report malicious emails and contact the IS Service Desk with all other suspicious activity.



TO: FHA Member Chief Executive Officers, Chief Financial Officers and Government Relations Executives
FROM: Mary C. Mayhew, President and Chief Executive Officer, Florida Hospital Association
SUBJECT: Action Alert: DPP Dear Colleague
DATE: April 11, 2022

Dear FHA Members,

This email is intended to provide an update on current actions to ensure the CMS informational bulletin regarding redistribution arrangements in the context of directed payment programs is not implemented:

- Today, Representatives Moskowitz and Bean sent a “dear colleague” to members of Florida’s delegation regarding the February 17 CMS directed payment program (DPP) informational bulletin. The letter, addressed to HHS Secretary Becerra, CMS Administrator Brooks-LaSure, and Medicaid Director Tsai, calls on the Centers for Medicare and Medicaid Services to withdraw the informational bulletin, which “creates needless uncertainty for the hospitals that serve [Florida’s] communities.” Last year and now, members of Florida’s delegation have united to ensure our state’s continued access to directed payment programs. These programs ensure hospitals are able to provide continued access to care for the state’s most vulnerable patients.

FHA members should reach out to their congressional offices and ask them to join Representatives Moskowitz and Bean as signatories of this “dear colleague”

letter. When contacting the office you can direct them to

Harshitha.Teppala@mail.house.gov in Rep. Moskowitz’s office or

richard.lamura@mail.house.gov in Rep. Bean’s office. If you need contact information for your members of congress, please reach out to Michael Williams at michaelw@fha.org.

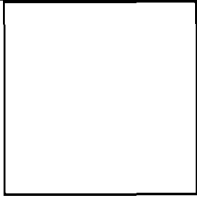
- In last week’s Capitol Update FHA reported on the filing of a Texas lawsuit challenging CMS’s interpretation of the statute governing hold harmless agreements related to Medicaid tax and match programs. We noted: On Wednesday, the state of Texas filed a lawsuit against CMS and HHS to permanently enjoin enforcement of its February 17 bulletin, which declared that private redistribution arrangements, in the context of local tax programs to fund the state’s share of a Medicaid match, are illegal.

The lawsuit alleges that the bulletin is outside of the Agency’s statutory authority, and even if it were not, it would violate the Administrative Procedures Act. The lawsuit quotes 2020 comments from Medicaid Administrator Daniel Tsai (then serving as the Massachusetts Medicaid Director) that call the Agency’s interpretation “an unprecedented federal overreach...[that] exceeded CMS’ statutory authority.” This is consistent with FHA’s understanding of the applicable provisions of the Social Security Act.

The suit asks the court to “declare unlawful and set aside the February 17 bulletin” and issue a preliminary and permanent injunction, prohibiting enforcement of the February 17 bulletin.

We will continue to provide updates to our members on any developments related to CMS’s efforts to implement the informational bulletin. If you have any questions do not hesitate to contact Michael Williams or me.

Sincerely,



Mary C. Mayhew
President and CEO

Florida Hospital Association

P 850-222-9800

M (b)(6)

E

W



Message

From: Tsai, Daniel (CMS/CMCS); (b)(6)
(b)(6)
Sent: 4/12/2023 1:55:42 AM
To: Pryor, Rachel (HHS/OS/IOS); (b)(6)
(b)(6) Schubel, Jessica L.
Subject: EOP/WHO (b)(6)
FW: FW: Action Alert: DPP Dear Colleague

FYI below...



TO: FHA Member Chief Executive Officers, Chief Financial Officers and Government Relations Executives
FROM: Mary C. Mayhew, President and Chief Executive Officer, Florida Hospital Association
SUBJECT: Action Alert: DPP Dear Colleague
DATE: April 11, 2022

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FHA members should reach out to their congressional offices and ask them to join Representatives Moskowitz and Bean as signatories of this “dear colleague” letter. When contacting the office you can direct them to Harshitha.Teppala@mail.house.gov in Rep. Moskowitz’s office or

richard.lamura@mail.house.gov in Rep. Bean's office. If you need contact information for your members of congress, please reach out to Michael Williams at michaelw@fha.org.

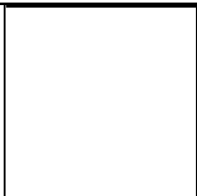
- In last week's Capitol Update FHA reported on the filing of a Texas lawsuit challenging CMS's interpretation of the statute governing hold harmless agreements related to Medicaid tax and match programs. We noted: On Wednesday, the state of Texas filed a lawsuit against CMS and HHS to permanently enjoin enforcement of its February 17 bulletin, which declared that private redistribution arrangements, in the context of local tax programs to fund the state's share of a Medicaid match, are illegal.

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We will continue to provide updates to our members on any developments related to CMS's efforts to implement the informational bulletin. If you have any questions do not hesitate to contact Michael Williams or me.

Sincerely,



Mary C. Mayhew

President and CEO

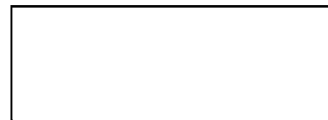
Florida Hospital Association

P 850-222-9800

M (b)(6)

E

W



Message

From: Stegmaier, Jason (CMS/CMCS); (b)(6)
(b)(6)
Sent: 2/8/2023 11:41:53 PM
To: Brooks, Bill (CMS/CMCS); (b)(6)
(b)(6); Failla, Jr. (he/his/him),
George P. (CMS/CMCS); (b)(6)
(b)(6); Glaze, Jackie
(CMS/CMCS); (b)(6)
(b)(6); Hill Petras, Wendy
(CMS/CMCS); (b)(6)
(b)(6); Hughes, Ruth
(CMS/CMCS); (b)(6)
(b)(6); Miller, Courtney
(CMS/CMCS); (b)(6)
(b)(6); Richards, Barbara
(CMS/CMCS); (b)(6)
(b)(6); Roberts, Shantrina
(CMS/CMCS); (b)(6)
(b)(6); Scott, James
(CMS/CMCS); (b)(6)
Subject: 2.8.23 CMCS Rollout Preview

Everyone,

Below is the rollout preview for this week that lists the rollout tactics and a short description of the item. At the bottom of the document there is a short explanation of the tiers that OC uses to classify the various releases by their level of public interest/Administration priority so you can understand what the tiers mean. My apologies that you didn't get one last week but OCD didn't send their weekly update so I didn't have anything to share.

Please let me know if you have any questions or concerns.

Thursday, February 9

- Medicaid Expenditure Data for New Adult Group
 - OC Tier 4 (Rollout Tactics: website posting)
 - Summary: CMS will post summary-level expenditure data available for the new adult group, including a breakout for individuals that are considered "newly eligible." The 2010 Affordable Care Act established a new adult eligibility group (VIII Group) to cover certain low-income individuals who are not otherwise eligible for coverage. An increased Federal Medical Assistance Percentage (FMAP) currently at 90 percent is available for medical services provided to people defined as "newly eligible" who are enrolled in the VIII Group. On a quarterly basis, states report summarized Medicaid expenditures, which serves as the basis for the amount of federal financial participation (FFP). This posting reflects the data reported for the third quarter of fiscal year (FY) 2019 through the fourth quarter of FY 2021. For first and second quarter of FY 2022, these are first-time posting periods.

Friday, February 10

- State Release Reminder Value-Based Purchasing (VBP) Reporting Requirements
 - OC Tier 4 (Rollout Tactics: listserv)

- Summary: CMS will issue a program notice to remind states of the Medicaid Drug Rebate reporting and certification requirements and deadlines on value-based purchasing (VBP) arrangements under a CMS authorized supplemental rebate agreement and certification of their state drug utilization data (SDUD) records.

Monday, February 13

- HCBS Quality Measure Set Tech Specifications
 - OC Tier 3 (Rollout Tactics: website posting, listserv)
 - Summary: CMS will issue the home and community-based services quality measures set technical specifications.

Tuesday, February 14

- NPRM: Medicaid DSH Third Party Payer
 - OC Tier 3 (Rollout Tactics: Internal Q&As, listserv, website posting)
 - Summary: CMS will issue the Disproportionate Share Hospital (DSH) Third Party Payer Proposed Rule (CMS-2445-P). The rule would address changes to the hospital-specific limit on Medicaid DSH payments made by recent legislation, affording states and hospitals more clarity on how the hospital-specific limit will be calculated. The proposed rule would also enhance administrative efficiency by making technical changes and clarifications to the DSH program. This proposed rule is required by the Consolidated Appropriations Act, 2021.

Wednesday, February 15

- Medicaid 1115 Demonstration Rapid Cycle Reports
 - OC Tier 3 (Rollout Tactics: website posting, listserv)
 - Summary: CMS will post four rapid cycle reports (RCRs) to Medicaid.gov. They address certain Medicaid section 1115 demonstrations and are intended to help policymakers at the state and federal levels understand the extent to which innovations further the objectives of the Medicaid program. Each RCR represents topics of importance in the design or implementation of demonstration policies, and provides primarily qualitative analyses that creates context for understanding the findings of the broader evaluation. Specifically, the four RCRs being released will focus on substance use disorder and serious mental illness section 1115 demonstrations.

Thursday, February 16

- Asthma Quality Improvement Resources
 - OC Tier 3 (Rollout Tactics: listserv, website posting)
 - Summary: CMS will release resources from the Improving Asthma Control Affinity Group. This update will include a webinar spotlighting several state projects, in addition to new quality improvement resources to be posted on Medicaid.gov.

Friday, February 17

- Health Care Related Taxes and Hold Harmless Arrangements CIB
 - OC Tier 2 (Rollout Tactics: Internal Q&A, reactive media statement)
 - Summary: CMS will release an informational bulletin on Health Care-related Taxes and Hold Harmless Arrangements Involving the Redistribution of Medicaid Payments.

OC Tier Guide:

- Tier 1- Announcement that would have national public interest
- Tier 2- Announcement that would have high public interest
- Tier 3-New Information, limited public interest
- Tier 4- Routine Business
- Tier 5- For Center/Office use only

Jason Stegmaier
Medicaid & CHIP Operations Group
Center for Medicaid and CHIP Services
Email: jason.stegmaier@cms.hhs.gov
Cell: (b)(6)

Confidential and deliberative, pre-decisional communication.

Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 4/26/2023 4:14:37 PM
To: Howe, Rory (CMS/CMCS) (Rory.Howe@cms.hhs.gov) [Rory.Howe@cms.hhs.gov]
Subject: FW: FW: Draft Report Discussion: A-03-16-00202 Hold-Harmless Requirements

From: Howe, Rory (CMS/CMCS)
Sent: Wednesday, September 12, 2018 3:46 PM
To: Goldstein, Stuart S. (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: FW: Draft Report Discussion: A-03-16-00202 Hold-Harmless Requirements

FYI

From: Fan, Kristin A. (CMS/CMCS)
Sent: Wednesday, September 12, 2018 3:07 PM
To: Ojeda, Danielle (CMS/OL) <Danielle.Ojeda@cms.hhs.gov>; CMS CMCS_GAO/OIG <CMCS_GAO_OIG@cms.hhs.gov>; Habit, Sandra C. (CMS/OL) <sandra.habit@cms.hhs.gov>; Sendros, Dennis (CMS/OL) <Dennis.Sendros@cms.hhs.gov>; CMS GAO Calendar <GAOCalendar@cms.hhs.gov>; Boston, Beverly A. (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Lane, Robert (CMS/CMCS) <Robert.Lane@cms.hhs.gov>; Freeze, Janet G. (CMS/CMCS) <Janet.Freeze@cms.hhs.gov>
Subject: RE: Draft Report Discussion: A-03-16-00202 Hold-Harmless Requirements

Here are some technical comments – if you think they are helpful.

Overall – the OIG indicates that states are in compliance with federal statute and regulation. They think that thresholds should be evaluated, but provide no concrete recommendations. There needs to be an acknowledgement that the statute allows the use of taxes to fund Medicaid payments. I also think they are conflating the direct and indirect hold harmless requirements.

p. 1 – First paragraph. The OIG points to the increase in Medicaid expenditures. But there is no indication that Medicaid expansion occurred and more people were able to avail themselves of Medicaid coverage.

p. 1 – reference to WV and PA taxes – there should be reference to the guidance that CMS issued to states in July 2014. Particularly the state programs that they reference are not relevant to the topic of this report. The question with those taxes was about what is considered a health care-related tax – not hold harmless requirements.

p. 3 – They should be explicit about what services are subject to a UPL. We don't want to make it seem that every payment is subject to a UPL. I know the report is focused on hospitals but it should be clarified.

p. 3 – 4th paragraph – the state plan does not specify the UPL methodology.

Appendix A – p. 19 – enforcement of regulations permanently delayed. While there was a temporary delay related to the direct hold harmless – there are no further delays. Further question the relevance of discussing the DAB case.

p. 5 – there needs to be a recognition that the statute allows the use of revenues generated from taxes as a means to pay for Medicaid services.

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

From: Ojeda, Danielle (CMS/OL)

Sent: Tuesday, September 11, 2018 4:12 PM

To: Ojeda, Danielle (CMS/OL); CMS CMCS_GAO/OIG; Habit, Sandra C. (CMS/OL); Sendros, Dennis (CMS/OL); CMS GAO Calendar; Fan, Kristin A. (CMS/CMCS); Boston, Beverly A. (CMS/CMCS)

Cc: Howe, Rory (CMS/CMCS); Lane, Robert (CMS/CMCS); Freeze, Janet G. (CMS/CMCS)

Subject: Draft Report Discussion: A-03-16-00202 Hold-Harmless Requirements

When: Wednesday, September 12, 2018 10:00 AM-10:30 AM (UTC-05:00) Eastern Time (US & Canada).

Where: conference call

DO NOT DELETE OR CHANGE ANY OF THE TEXT BELOW THIS LINE

Danielle Ojeda has scheduled this WebEx meeting.

Draft Report Discussion: A-03-16-00202 Hold-Harmless Requirements

Host: Danielle Ojeda

Access Information

1. Please call the following number:
WebEx: 1-877-267-1577
2. Follow the instructions you hear on the phone.

Your WebEx Meeting Number: (b)(6)

=====

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=====

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3. If a password is required, enter the meeting password: (This meeting does not require a password.)
4. Click "Join".
5. Follow the instructions that appear on your screen.

+++++

This meeting may be recorded by the host. If you have questions, please contact the host.

+++++

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<https://meetings.cms.gov/> (b)(6)

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The meetings.cms.gov team

Message

From: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6)
Sent: 1/17/2023 2:56:43 PM
To: Boston, Beverly (CMS/CMCS); (b)(6)
(b)(6)
CC: Maccarroll, Amber (CMS/CMCS); (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS); (b)(6)
(b)(6)
Subject: RE: RE: RORY/JEREMY IMMEDIATE ACTION:- OGC OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hi, Beverly. The master version below does not have all the tracked changes in it. For example, all of OL's line edits are not tracked. Would it be possible to have a consolidated version showing all the tracked changes from the original version?

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 8:47 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: RORY/JEREMY IMMEDIATE ACTION:- OGC OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Good morning,

The CIB has not yet gone back to be cleared through IOS/OMB. Rory and Jeremy is the CIB and underlying docs good go?

HC Related Taxes CIB

Q/As Taxes CIB

Reactive Statement - Tax CIB

Beverly

From: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Sent: Thursday, January 12, 2023 4:40 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: RE: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Done! And thank you for everything this week – I know it's been a wild one.... Hope you have a fabulous long weekend!

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Thursday, January 12, 2023 4:32 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>

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

I'm fine if you want to add them (attached) 😊. I'm working on huge GAO CAPs report request on supplemental payments that will go to the Divs for update. Thank you!

HC Related Taxes CIB

Q/As Taxes CIB

Reactive Statement - Tax CIB

Beverly

From: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>

Sent: Thursday, January 12, 2023 4:25 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>

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

Good catch Beverly. Sorry I missed those. Yes, they need to be added in. Do you have time or do you want me to add them?

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

Sent: Thursday, January 12, 2023 4:23 PM

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

Thanks Amber. I do not see Tim Engelhardt's edits that he requested. Do they need to be added?

Beverly

From: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>

Sent: Thursday, January 12, 2023 4:00 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>

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

Hi Beverly –

I reviewed and provided a few minor (mainly formatting) edits. These are good to go by me, but I think Rory will likely want to review also before they go back.

Thanks, Amber

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

Sent: Thursday, January 12, 2023 2:44 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>

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

Good afternoon,

The FMG Front Office is up next to clear the CIB and underlying docs prior to moving them back to the OCD. Please make any additional edits. I will accept the changes and will provide OCD with both clean and redlined versions. I'll be online late if needed.

HC Related Taxes CIB

Q/As Taxes CIB

Reactive Statement - Tax CIB

Thanks

Beverly

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

Sent: Thursday, January 12, 2023 2:41 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: 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>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

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

Great. Thanks Jonathan, Kristin and team. I will clear the updates with the FMG Front Office and will move the items forward. So far, what I am hearing is that the CIB will not go through another round of CMS clearance, but will be moved forward to IOS/OMB/DPC.

Thank you!

Beverly

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

Sent: Thursday, January 12, 2023 2:33 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>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

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

Beverly,

I believe Kristin and I have responded to all the comments and made of the edits that we feel are appropriate, including for the reactive statement. I don't think there is anything left for us to do. Please let us know if we can be of any further assistance. I will be glad to make any other changes anyone else suggests. 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: Thursday, January 12, 2023 2:26 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>; 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>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

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

Good afternoon team – I am checking in on the status of the updated CIB. I understand from Rory that we are fine to reject the re-framing references proposed by OL. As the CIB is on a timeline for release by 1/23, can all edits/comments be wrapped up on the CIB/Q/As and Reactive Statement by COB today?

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](#)

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

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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 - CCIO Clearances <FrontOffice-CCIOClearances@cms.hhs.gov>; Wu (he/him), Jeff (CMS/CCIO) <Jeff.Wu@cms.hhs.gov>; Wilson, Lisa (CMS/CCIO) <lisa.wilson@cms.hhs.gov>; Oconnor, Nancy (CMS/OPOLE) <Nancy.OConnor@cms.hhs.gov>; Rosta (she/her), Sara (CMS/CCIO) <Sara.Rosta@cms.hhs.gov>; Arapi, Leslie (CMS/OPOLE) <Leslie.Arapi@cms.hhs.gov>; Frimpong, Janny (CMS/CCIO) <Janny.Frimpong@cms.hhs.gov>; Brooks, Kiahana (CMS/CCIO) <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.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) <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-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 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: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 5/1/2023 4:16:17 PM
To: Kirchgraber, Kate (CMS/OL) (b)(6)
(b)(6)
CC: Costello, Anne Marie (CMS/CMCS) (b)(6)
(b)(6) Martino, Maria
(CMS/OL) (b)(6)
(b)(6) Maccarroll, Amber
(CMS/CMCS) (b)(6)
(b)(6) Arnold, Charlie
(CMS/CMCS) (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS) (b)(6)
(b)(6)
Subject: RE: RE: more hold harmless requests

Hi Kate,

I've looped in Evelyn Wiley, who can provide some times that FMG would be available. Thanks.

Rory

From: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Sent: Monday, May 1, 2023 11:31 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Martino, Maria (CMS/OL) <Maria.Martino@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: more hold harmless requests

Hi Rory –

We're continuing to get incoming on the hold harmless CIB, including a new letter from FL Republican members that we received this morning. We've also had requests for calls from a number of Democratic Hill offices. Interest is primarily coming from TX and FL, although we've also had a request from Democratic Senate staff from VA and NV. We were initially going to try to handle these within OL, but given the volume and the potential for questions about what we're doing in each state, we're going to need your help.

We'd like to do 3 separate calls within the next 2 weeks – TX, FL, and a combined one for VA and NV.

Can you give us some times this week and next that you're available for these 3 calls and 1 prep session?

Thanks so much!

Kate

Kate Kirchgraber | Director | Low Income Programs Analysis Group | Office of Legislation | Centers for Medicare & Medicaid Services | kate.kirchgraber@cms.hhs.gov | 202.680.2481

Message

From: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6)
Sent: 5/1/2023 4:17:08 PM
To: Kirchgraber, Kate (CMS/OL); (b)(6)
(b)(6)
CC: Costello, Anne Marie (CMS/CMCS); (b)(6)
(b)(6) Martino, Maria
(CMS/OL); (b)(6)
(b)(6) Maccarroll, Amber
(CMS/CMCS); (b)(6)
(b)(6) Arnold, Charlie
(CMS/CMCS); (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS); (b)(6)
(b)(6) Wiley, Evelyn
(CMS/CMCS); (b)(6)
(b)(6)
Subject: RE: RE: more hold harmless requests

Sorry for the duplicate email, all! I just noticed Amber's.

From: Howe, Rory (CMS/CMCS)
Sent: Monday, May 1, 2023 12:16 PM
To: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Martino, Maria (CMS/OL) <Maria.Martino@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: RE: more hold harmless requests

Hi Kate,

I've looped in Evelyn Wiley, who can provide some times that FMG would be available. Thanks.

Rory

From: Kirchgraber, Kate (CMS/OL) <Kate.Kirchgraber@cms.hhs.gov>
Sent: Monday, May 1, 2023 11:31 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Martino, Maria (CMS/OL) <Maria.Martino@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: more hold harmless requests

Hi Rory –

We're continuing to get incoming on the hold harmless CIB, including a new letter from FL Republican members that we received this morning. We've also had requests for calls from a number of Democratic Hill offices. Interest is primarily coming from TX and FL, although we've also had a request from Democratic Senate staff from VA and NV. We were initially going to try to handle these within OL, but given the volume and the potential for questions about what we're doing in each state, we're going to need your help.

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Thanks so much!

Kate

Kate Kirchgraber | Director | Low Income Programs Analysis Group | Office of Legislation | Centers for Medicare & Medicaid Services | kate.kirchgraber@cms.hhs.gov | 202.680.2481

Message

From: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6)
Sent: 1/17/2023 7:01:00 PM
To: Boston, Beverly (CMS/CMCS); (b)(6)
(b)(6)
Subject: RE: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thank you. FYI, I did give Charlie the heads-up that it would be coming and emphasized that it was due to the OC issue.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 1:48 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>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Good morning,

HUGE APOLOGY IN ADVANCE... really hate to do this but it appears that the version I posted to SP with your updates is what we got back from OC as "reconciled" and it's **not the version with actual OGC/OL line edits**. Unfortunately, the previous version reconciled version looks like we've formally accepted OL/OGC comments when we may not necessarily agree indicated by comment bubble. In order to **ensure a comprehensive view of ALL LINE EDITS/COMMENTS**, we will need DRP and Kristin to re-do/ re-apply all edits and comments to the version in the link. So sorry again, hopefully it won't take long.

(b)(5)

thank you

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Thursday, January 12, 2023 2:33 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>; Howe, Rory (CMS/CMCS)

<Rory.Howe@cms.hhs.gov>

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

Beverly,

I believe Kristin and I have responded to all the comments and made of the edits that we feel are appropriate, including for the reactive statement. I don't think there is anything left for us to do. Please let us know if we can be of any further assistance. I will be glad to make any other changes anyone else suggests. 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: Thursday, January 12, 2023 2:26 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>; 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>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

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

Good afternoon team – I am checking in on the status of the updated CIB. I understand from Rory that we are fine to reject the re-framing references proposed by OL. As the CIB is on a timeline for release by 1/23, can all edits/comments be wrapped up on the CIB/Q/As and Reactive Statement by COB today?

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](#)

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

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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 - CCIO Clearances <FrontOffice-CCIOClearances@cms.hhs.gov>; Wu (he/him), Jeff (CMS/CCIO) <Jeff.Wu@cms.hhs.gov>; Wilson, Lisa (CMS/CCIO) <lisa.wilson@cms.hhs.gov>; Oconnor, Nancy (CMS/OPOLE) <Nancy.OConnor@cms.hhs.gov>; Rosta (she/her), Sara (CMS/CCIO) <Sara.Rosta@cms.hhs.gov>; Arapi, Leslie (CMS/OPOLE) <Leslie.Arapi@cms.hhs.gov>; Frimpong, Janny (CMS/CCIO) <Janny.Frimpong@cms.hhs.gov>; Brooks, Kiahana (CMS/CCIO) <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

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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) <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.Whelehan@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-CQISOCOMO@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

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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: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 5/1/2023 6:29:47 PM
To: Arnold, Charlie (CMS/CMCS) (b)(6)
(b)(6)
CC: Clark, Jennifer (CMS/CMCS) (b)(6)
(b)(6)
Subject: RE: RE: Tax TA Email to NV

Per our conversation

As an alternative to obtaining provider attestations, CMS is open to state ideas regarding how it can provide information to CMS to support that its hospital tax program does not likely include a hold harmless arrangement. For example, the state could hold a meeting with its providers. Please find below an example of state talking points that could be used for such a meeting:

From: Arnold, Charlie (CMS/CMCS) <Charlie.Arnold@cms.hhs.gov>
Sent: Tuesday, April 18, 2023 8:03 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Clark, Jennifer (CMS/CMCS) <Jennifer.Clark@cms.hhs.gov>
Subject: FW: Tax TA Email to NV

Good morning Rory,

I am moving this to the top of your email. Once you complete your review, we can make any requested edits and send to the state. They are awaiting our TA.

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: Arnold, Charlie (CMS/CMCS)
Sent: Thursday, April 6, 2023 7:50 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: 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>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: Tax TA Email to NV

Good morning Rory,

I am attaching the draft email to NV regarding the state's question. Also attached is the attestation that can be used as a template for the state to provide to its providers. This is the original information that was sent to the state previously, with on minor changes: ensuring the consistent use of "the Act" throughout the document and

consistent non-capitalization of “section”, where warranted. I am attaching a tracked change version and one with the changes accepted (for ease of reading).

Once your review and edits are complete, please let us know if you want the team to send the email and attachment to the state.

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: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 1/17/2023 8:41:10 PM
To: Boston, Beverly (CMS/CMCS) (b)(6)
(b)(6) Goldstein, Stuart
(CMS/CMCS) (b)(6)
(b)(6) Endelman (he/him),
Jonathan (CMS/CMCS) (b)(6)
(b)(6) Fan, Kristin
(CMS/CMCS) (b)(6)
(b)(6) Arnold, Charlie
(CMS/CMCS) (b)(6)
(b)(6) Clark, Jennifer
(CMS/CMCS) (b)(6)
CC: Maccarroll, Amber (CMS/CMCS) (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS) (b)(6)
(b)(6)
Subject: RE: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thanks, everyone!

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 3:40 PM
To: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; 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>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Sincere apologies for this confusion. Greatly appreciated.

Beverly

From: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 3:12 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; 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>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Beverly,

As per our conversation I have a meeting scheduled with Jonathan at 7AM tomorrow and will have the comments added to the document by 8AM. I have added the duals comment in sharepoint. If you have any additional questions please let me know.

Thank you
Stuart

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 1:48 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>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Good morning,

HUGE APOLOGY IN ADVANCE... really hate to do this but it appears that the version I posted to SP with your updates is what we got back from OC as "reconciled" and it's **not the version with actual OGC/OL line edits**. Unfortunately, the previous version reconciled version looks like we've formally accepted OL/OGC comments when we may not necessarily agree indicated by comment bubble. In order to **ensure a comprehensive view of ALL LINE EDITS/COMMENTS**, we will need DRP and Kristin to re-do/ re-apply all edits and comments to the version in the link. So sorry again, hopefully it won't take long.

(b)(5)

thank you

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Thursday, January 12, 2023 2:33 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>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Beverly,

I believe Kristin and I have responded to all the comments and made of the edits that we feel are appropriate, including for the reactive statement. I don't think there is anything left for us to do. Please let us know if we can be of any further assistance. I will be glad to make any other changes anyone else suggests. 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: Thursday, January 12, 2023 2:26 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>; 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>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

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

Good afternoon team – I am checking in on the status of the updated CIB. I understand from Rory that we are fine to reject the re-framing references proposed by OL. As the CIB is on a timeline for release by 1/23, can all edits/comments be wrapped up on the CIB/Q/As and Reactive Statement by COB today?

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

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

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

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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

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Message

From: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6)
Sent: 1/19/2023 4:23:59 PM
To: Boston, Beverly (CMS/CMCS); (b)(6)
(b)(6)
CC: Silanskis, Jeremy (CMS/CMCS); (b)(6)
(b)(6) Maccarroll, Amber
(CMS/CMCS); (b)(6)
(b)(6)
Subject: RE: RE: NEED ETA : DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hi, Beverly. I am done with the CIB and made a number of edits.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Thursday, January 19, 2023 11:09 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: NEED ETA : DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Good morning, the OCD is pinging and would like an ETA on moving the CIB into additional clearances. Please let me know when you plan to complete review today. Thank you

See CIB inclusive of OL/OGC line edits and comments. Also, see below from Johnathan. **DUE COB**

(b)(5)

Johnathan Endelman Comments: Hello all. I have added back my comments and made some edits. I think that one outstanding issue that probably needs to be decided at the group level is how definitive we want to be in saying "this is a hold harmless." For example, the CIB currently reads, "These taxes may contain impermissible hold harmless arrangements." If the arrangements operate in the real world as we describe them in our example, they would certainly be hold harmless arrangements. However, as Kristin says, we often don't have complete information about how these arrangements operate. In addition, it is difficult to say definitively, "this is a hold harmless" without seeing the actual arrangement. I think everything else has been addressed.

Best,

Jonathan

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Wednesday, January 18, 2023 8:39 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

I think "may" is appropriate.

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, January 18, 2023 7:58 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hello all. I have added back my comments and made some edits. I think that one outstanding issue that probably needs to be decided at the group level is how definitive we want to be in saying "this is a hold harmless." For example, the CIB currently reads, "These taxes may contain impermissible hold harmless arrangements." If the arrangements operate in the real world as we describe them in our example, they would certainly be hold harmless arrangements. However, as Kristin says, we often don't have complete information about how these arrangements operate. In addition, it is difficult to say definitively, "this is a hold harmless" without seeing the actual arrangement. I think everything else has been addressed.

Best,

Jonathan

Jonathan Endelman
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Centers for Medicare & Medicaid Services (CMS)
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410.786.4738
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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 17, 2023 5:16 PM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements



Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 5:15 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

My victory for the day. If only I could learn how to learn the tv remote!

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 4:59 PM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Yes, I see them! Whoo-Hoo!

Thank you!

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 4:30 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

So I think I re-added my comments/edits. I love technology, but sometimes it is not my friend. Happy to discuss further.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 3:44 PM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thank you! 😊

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 3:43 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@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>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Working on it.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 3:40 PM
To: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; 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>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Sincere apologies for this confusion. Greatly appreciated.

Beverly

From: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 3:12 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; 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>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Beverly,

As per our conversation I have a meeting scheduled with Jonathan at 7AM tomorrow and will have the comments added to the document by 8AM. I have added the duals comment in sharepoint. If you have any additional questions please let me know.

Thank you
Stuart

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 1:48 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>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

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

Good morning,

HUGE APOLOGY IN ADVANCE... really hate to do this but it appears that the version I posted to SP with your updates is what we got back from OC as

“reconciled” and it’s **not the version with actual OGC/OL line edits**. Unfortunately, the previous version reconciled version looks like we’ve formally accepted OL/OGC comments when we may not necessarily agree indicated by comment bubble. In order to **ensure a comprehensive view of ALL LINE EDITS/COMMENTS**, we will need DRP and Kristin to re-do/ re-apply all edits and comments to the version in the link. So sorry again, hopefully it won’t take long.

(b)(5)

thank you

Beverly

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

Sent: Thursday, January 12, 2023 2:33 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>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

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

Beverly,

I believe Kristin and I have responded to all the comments and made of the edits that we feel are appropriate, including for the reactive statement. I don’t think there is anything left for us to do. Please let us know if we can be of any further assistance. I will be glad to make any other changes anyone else suggests. Thank you.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
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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: Thursday, January 12, 2023 2:26 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>; 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>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

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

Good afternoon team – I am checking in on the status of the updated CIB. I understand from Rory that we are fine to reject the re-framing references proposed by OL. As the CIB is on a timeline for release by 1/23, can all edits/comments be wrapped up on the CIB/Q/As and Reactive Statement by COB today?

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

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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,

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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

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Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 1/19/2023 4:24:07 PM
To: Boston, Beverly (CMS/CMCS) (b)(6)
(b)(6)
Subject: RE: RE: NEED ETA : DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

I hope you are feeling okay!

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Thursday, January 19, 2023 11:09 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: NEED ETA : DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Good morning, the OCD is pinging and would like an ETA on moving the CIB into additional clearances. Please let me know when you plan to complete review today. Thank you

See CIB inclusive of OL/OGC line edits and comments. Also, see below from Johnathan. **DUE COB**

(b)(5)

Johnathan Endelman Comments: Hello all. I have added back my comments and made some edits. I think that one outstanding issue that probably needs to be decided at the group level is how definitive we want to be in saying "this is a hold harmless." For example, the CIB currently reads, "These taxes may contain impermissible hold harmless arrangements." If the arrangements operate in the real world as we describe them in our example, they would certainly be hold harmless arrangements. However, as Kristin says, we often don't have complete information about how these arrangements operate. In addition, it is difficult to say definitively, "this is a hold harmless" without seeing the actual arrangement. I think everything else has been addressed.

Best,

Jonathan

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Wednesday, January 18, 2023 8:39 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

I think "may" is appropriate.

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, January 18, 2023 7:58 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hello all. I have added back my comments and made some edits. I think that one outstanding issue that probably needs to be decided at the group level is how definitive we want to be in saying "this is a hold harmless." For example, the CIB currently reads, "These taxes may contain impermissible hold harmless arrangements." If the arrangements operate in the real world as we describe them in our example, they would certainly be hold harmless arrangements. However, as Kristin says, we often don't have complete information about how these arrangements operate. In addition, it is difficult to say definitively, "this is a hold harmless" without seeing the actual arrangement. I think everything else has been addressed.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
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From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 5:16 PM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements



Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 5:15 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

My victory for the day. If only I could learn how to learn the tv remote!

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 4:59 PM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Yes, I see them! Whoo-Hoo!

Thank you!

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 4:30 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

So I think I re-added my comments/edits. I love technology, but sometimes it is not my friend. Happy to discuss further.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 3:44 PM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thank you! 😊

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 3:43 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@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>

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

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

Working on it.

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

Sent: Tuesday, January 17, 2023 3:40 PM

To: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; 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>

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

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

Sincere apologies for this confusion. Greatly appreciated.

Beverly

From: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Sent: Tuesday, January 17, 2023 3:12 PM

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

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

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

Beverly,

As per our conversation I have a meeting scheduled with Jonathan at 7AM tomorrow and will have the comments added to the document by 8AM. I have added the duals comment in sharepoint. If you have any additional questions please let me know.

Thank you
Stuart

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

Sent: Tuesday, January 17, 2023 1:48 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>

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

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

Good morning,

HUGE APOLOGY IN ADVANCE... really hate to do this but it appears that the version I posted to SP with your updates is what we got back from OC as

“reconciled” and it’s **not the version with actual OGC/OL line edits**. Unfortunately, the previous version reconciled version looks like we’ve formally accepted OL/OGC comments when we may not necessarily agree indicated by comment bubble. In order to **ensure a comprehensive view of ALL LINE EDITS/COMMENTS**, we will need DRP and Kristin to re-do/ re-apply all edits and comments to the version in the link. So sorry again, hopefully it won’t take long.

(b)(5)

thank you

Beverly

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

Sent: Thursday, January 12, 2023 2:33 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>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

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

Beverly,

I believe Kristin and I have responded to all the comments and made of the edits that we feel are appropriate, including for the reactive statement. I don’t think there is anything left for us to do. Please let us know if we can be of any further assistance. I will be glad to make any other changes anyone else suggests. 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: Thursday, January 12, 2023 2:26 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>; 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>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

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

Good afternoon team – I am checking in on the status of the updated CIB. I understand from Rory that we are fine to reject the re-framing references proposed by OL. As the CIB is on a timeline for release by 1/23, can all edits/comments be wrapped up on the CIB/Q/As and Reactive Statement by COB today?

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

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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) <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) <Abuko.Estrada@cms.hhs.gov>; 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/OAGM) <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

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Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 1/19/2023 4:30:31 PM
To: Boston, Beverly (CMS/CMCS) (b)(6)
(b)(6)
Subject: RE: RE: NEED ETA : DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Please make sure you take care of yourself and take any time that you need. Let me know if I can help in any way.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Thursday, January 19, 2023 11:29 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE: NEED ETA : DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Not as bad a yesterday. Thanks for asking.

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Thursday, January 19, 2023 11:24 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: NEED ETA : DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

I hope you are feeling okay!

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Thursday, January 19, 2023 11:09 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: NEED ETA : DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Good morning, the OCD is pinging and would like an ETA on moving the CIB into additional clearances. Please let me know when you plan to complete review today. Thank you

See CIB inclusive of OL/OGC line edits and comments. Also, see below from Johnathan. **DUE COB**

(b)(5)

Johnathan Endelman Comments: Hello all. I have added back my comments and made some edits. I think that one outstanding issue that probably needs to be decided at the group level is how definitive we want to be in saying “this is a hold harmless.” For example, the CIB currently reads, “These taxes may contain impermissible hold harmless arrangements.” If the arrangements operate in the real world as we describe them in our example, they would certainly be hold harmless arrangements. However, as Kristin says, we often don’t have complete information about how these arrangements operate. In addition, it is difficult to say definitively, “this is a hold harmless” without seeing the actual arrangement. I think everything else has been addressed.

Best,

Jonathan

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Wednesday, January 18, 2023 8:39 AM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

I think “may” is appropriate.

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Wednesday, January 18, 2023 7:58 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hello all. I have added back my comments and made some edits. I think that one outstanding issue that probably needs to be decided at the group level is how definitive we want to be in saying “this is a hold harmless.” For example, the CIB currently reads, “These taxes may contain impermissible hold harmless arrangements.” If the arrangements operate in the real world as we describe them in our example, they would certainly be hold harmless arrangements. However, as Kristin says, we often don’t have complete information about how these arrangements operate. In addition, it is difficult to say definitively, “this is a hold harmless” without seeing the actual arrangement. I think everything else has been addressed.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid and CHIP Services (CMCS)
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410.786.4738
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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 17, 2023 5:16 PM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements



Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 5:15 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

My victory for the day. If only I could learn how to learn the tv remote!

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 4:59 PM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Yes, I see them! Whoo-Hoo!

Thank you!

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 4:30 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

So I think I re-added my comments/edits. I love technology, but sometimes it is not my friend. Happy to discuss further.

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

Sent: Tuesday, January 17, 2023 3:44 PM

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

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

Thank you! 😊

Beverly

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

Sent: Tuesday, January 17, 2023 3:43 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@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>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

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

Working on it.

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

Sent: Tuesday, January 17, 2023 3:40 PM

To: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; 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>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

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

Sincere apologies for this confusion. Greatly appreciated.

Beverly

From: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

Sent: Tuesday, January 17, 2023 3:12 PM

To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; 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>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

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

Beverly,

As per our conversation I have a meeting scheduled with Jonathan at 7AM tomorrow and will have the comments added to the document by 8AM. I have added the duals comment in sharepoint. If you have any additional questions please let me know.

Thank you
Stuart

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 1:48 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>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Good morning,

HUGE APOLOGY IN ADVANCE... really hate to do this but it appears that the version I posted to SP with your updates is what we got back from OC as "reconciled" and it's **not the version with actual OGC/OL line edits**. Unfortunately, the previous version reconciled version looks like we've formally accepted OL/OGC comments when we may not necessarily agree indicated by comment bubble. In order to **ensure a comprehensive view of ALL LINE EDITS/COMMENTS**, we will need DRP and Kristin to re-do/ re-apply all edits and comments to the version in the link. So sorry again, hopefully it won't take long.

(b)(5)

thank you

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Thursday, January 12, 2023 2:33 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>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Beverly,

I believe Kristin and I have responded to all the comments and made of the edits that we feel are appropriate, including for the reactive statement. I don't think there is anything left for us to do. Please let us know if we can be of any further assistance. I will be glad to make any other changes anyone else suggests. 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: Thursday, January 12, 2023 2:26 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>; 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>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

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

Good afternoon team – I am checking in on the status of the updated CIB. I understand from Rory that we are fine to reject the re-framing references proposed by OL. As the CIB is on a timeline for release by 1/23, can all edits/comments be wrapped up on the CIB/Q/As and Reactive Statement by COB today?

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

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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>;

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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

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Message

From: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6)
Sent: 1/19/2023 5:10:50 PM
To: Boston, Beverly (CMS/CMCS); (b)(6)
(b)(6)
CC: Silanskis, Jeremy (CMS/CMCS); (b)(6)
(b)(6) Maccarroll, Amber
(CMS/CMCS); (b)(6)
(b)(6)
Subject: Re: Re: NEED ETA : DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Yes. Good enough. Thanks!

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Thursday, January 19, 2023 11:30:50 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: RE: NEED ETA : DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Great, I hate to ask, but hopefully the underlying doc are okay?

Q/As Taxes CIB

Reactive Statement - Tax CIB

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Thursday, January 19, 2023 11:24 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: RE: NEED ETA : DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hi, Beverly. I am done with the CIB and made a number of edits.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Thursday, January 19, 2023 11:09 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Subject: NEED ETA : DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Good morning, the OCD is pinging and would like an ETA on moving the CIB into additional clearances. Please let me know when you plan to complete review today. Thank you

See CIB inclusive of OL/OGC line edits and comments. Also, see below from Johnathan. **DUE COB**

(b)(5)

Johnathan Endelman Comments: Hello all. I have added back my comments and made some edits. I think that one outstanding issue that probably needs to be decided at the group level is how definitive we want to be in saying “this is a hold harmless.” For example, the CIB currently reads, “These taxes may contain impermissible hold harmless arrangements.” If the arrangements operate in the real world as we describe them in our example, they would certainly be hold harmless arrangements. However, as Kristin says, we often don’t have complete information about how these arrangements operate. In addition, it is difficult to say definitively, “this is a hold harmless” without seeing the actual arrangement. I think everything else has been addressed.

Best,

Jonathan

Beverly

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

Sent: Wednesday, January 18, 2023 8:39 AM

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

Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

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

I think “may” is appropriate.

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

Sent: Wednesday, January 18, 2023 7:58 AM

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

Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>

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

Hello all. I have added back my comments and made some edits. I think that one outstanding issue that probably needs to be decided at the group level is how definitive we want to be in saying “this is a hold harmless.” For example, the CIB currently reads, “These taxes may contain impermissible hold harmless arrangements.” If the arrangements operate in the real world as we describe them in our example, they would certainly be hold harmless arrangements. However, as Kristin says, we often don’t have complete information about how these arrangements operate. In addition, it is difficult

to say definitively, "this is a hold harmless" without seeing the actual arrangement. I think everything else has been addressed.

Best,

Jonathan

Jonathan Endelman
Social Science Research Analyst
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From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 5:16 PM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements



Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 5:15 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

My victory for the day. If only I could learn how to learn the tv remote!

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 4:59 PM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Yes, I see them! Whoo-Hoo!

Thank you!

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 4:30 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Cc: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

So I think I re-added my comments/edits. I love technology, but sometimes it is not my friend. Happy to discuss further.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 3:44 PM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thank you! 😊

Beverly

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 3:43 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@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>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Working on it.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 3:40 PM
To: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>; 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>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Sincere apologies for this confusion. Greatly appreciated.

Beverly

From: Goldstein, Stuart (CMS/CMCS) <STUART.GOLDSTEIN@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 3:12 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; 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>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Beverly,

As per our conversation I have a meeting scheduled with Jonathan at 7AM tomorrow and will have the comments added to the document by 8AM. I have added the duals comment in sharepoint. If you have any additional questions please let me know.

Thank you
Stuart

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Tuesday, January 17, 2023 1:48 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>
Cc: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE-DO REQUESTED: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Good morning,

HUGE APOLOGY IN ADVANCE... really hate to do this but it appears that the version I posted to SP with your updates is what we got back from OC as "reconciled" and it's **not the version with actual OGC/OL line edits**. Unfortunately, the previous version reconciled version looks like we've formally accepted OL/OGC comments when we may not necessarily agree indicated by comment bubble. In order to **ensure a comprehensive view of ALL LINE EDITS/COMMENTS**, we will need DRP and Kristin to re-do/ re-apply all edits and comments to the version in the link. So sorry again, hopefully it won't take long.

(b)(5)

thank you

Beverly

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Thursday, January 12, 2023 2:33 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>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Beverly,

I believe Kristin and I have responded to all the comments and made of the edits that we feel are appropriate, including for the reactive statement. I don't think there is anything left for us to do. Please let us know if we can be of any further assistance. I will be glad to make any other changes anyone else suggests. 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: Thursday, January 12, 2023 2:26 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>; 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>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: DUE COB TODAY: OGC-OL Passback: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Good afternoon team – I am checking in on the status of the updated CIB. I understand from Rory that we are fine to reject the re-framing references proposed by OL. As the CIB is on a timeline for release by 1/23, can all edits/comments be wrapped up on the CIB/Q/As and Reactive Statement by COB today?

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

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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)

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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>; 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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

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Message

From: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6)
Sent: 1/4/2023 4:52:56 PM
To: adams, lia (CMS/CMCS); (b)(6)
(b)(6)
CC: Boston, Beverly (CMS/CMCS); (b)(6)
(b)(6); Maccarroll, Amber
(CMS/CMCS); (b)(5)
(b)(6); Silanskis, Jeremy
(CMS/CMCS); (b)(6)
(b)(6)
Subject: RE: RE: Due Today: Update FMG Blurb for CMCS Issues 01/13/23 -

I am done with the Issues blurb. Missouri will go on the 18th. Also, I sent a separate email to Dan/Anne Marie/Sara, but could we request from OCD SAs a placeholder for an exec session topic at the end of Mega Clearance on a CA MCO Tax Issue?

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Sent: Wednesday, January 4, 2023 11:39 AM
To: 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>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: Due Today: Update FMG Blurb for CMCS Issues 01/13/23 -
Importance: High

Re-flagging as a reminder!

Also, please let me know NLT by 12 PM if the Missouri paper should be moved forward.

Link: [Missouri paper](#)

Link: [Missouri blurb](#)

From: adams, lia (CMS/CMCS)
Sent: Wednesday, January 4, 2023 10:11 AM
To: 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>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: Update FMG Blurb for CMCS Issues 01/13/23

(b)(5)

From: Hakim, Alyson (Aly) (CMS/CMCS) <Alyson.Hakim@cms.hhs.gov>
Sent: Wednesday, January 4, 2023 10:05 AM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: Update FMG Blurb for CMCS Issues 01/13/23
Importance: High

Morning! AMC asked that this be moved to discussion/informational section given that we don't typically seek approval of a CIB since it's not new policy. Please adjust the background decision blurb. I need to submit to OSORA asap. Thank you!!!

(b)(5)

- Decision Deadline: N/A

Alyson "Aly" R. Hakim

Special Assistant, CMCS Office of the Center Director (OCD) Detail
Centers for Medicare and Medicaid Services (CMS)

☎ 443.938.3987 | ✉ alyson.hakim@cms.hhs.gov

Message

From: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6)
Sent: 1/20/2023 8:57:28 PM
To: Boston, Beverly (CMS/CMCS); (b)(6)
(b)(6); Endelman (he/him),
Jonathan (CMS/CMCS); (b)(6)
(b)(6); Fan, Kristin
(CMS/CMCS); (b)(6)
(b)(6); Arnold, Charlie
(CMS/CMCS); (b)(6)
(b)(6); Clark, Jennifer
(CMS/CMCS); (b)(6)
(b)(6); Goldstein, Stuart
(CMS/CMCS); (b)(6)
(b)(6); Cuno, Richard
(CMS/CMCS); (b)(6)
(b)(6)
CC: Maccarroll, Amber (CMS/CMCS); (b)(6)
(b)(6); Silanskis, Jeremy
(CMS/CMCS); (b)(6)
(b)(6); adams, lia (CMS/CMCS)
(b)(6)
Subject: RE: RE: 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

That sounds great. Thanks, Beverly.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Friday, January 20, 2023 3:48 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: 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

Updated timeline below from the OCD. OS comments due on Tues 1/24 instead of Mon 1/23.

Health Care-Related Taxes CIB

- 1/19 – Send to IOS (Rachel) for review
- 1/24 COB – Rachel sends comments
- 1/25 – FMG revises
- 1/26 9am – Send to EOP (DPC, OMB) for review
- 1/30 COB – EOP sends comments
- 1/31 – 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 we can't or shouldn't focus on anything other than the fact that hold harmless arrangements are against federal Medicaid law. They are, of course, but that is not the only motivating factor in issuing the CIB. They say we should cut any reference to the fact that halting these redistribution agreements could help providers with high Medicaid volume and that these financing mechanisms serve to take the focus away from quality health outcomes and towards who can finance the most money to minimize state expenditures while maximizing federal outlays. I think we should push back and say that issuing this CIB will be a positive for the transparency and improve the operation of the Medicaid program. 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
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Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
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7500 Security Blvd.
Mail Stop, S3-14-28
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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

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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>;

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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

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Message

From: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6)
Sent: 1/3/2023 8:48:54 PM
To: Engelhardt, Tim (CMS/FCHCO); (b)(6)
(b)(6)
Subject: RE: 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

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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

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Message

From: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6)
Sent: 1/31/2023 9:28:54 PM
To: Endelman (he/him), Jonathan (CMS/CMCS); (b)(6)
(b)(6); Fan, Kristin
(CMS/CMCS); (b)(6)
(b)(6) Schoonover, Matthew
(CMS/CMCS); (b)(6)
(b)(6); Truffer, Christopher
(CMS/OACT); (b)(6)
(b)(6) Sagandykov, Makhmud
(CMS/OACT); (b)(6)
(b)(6); Wong, Mark
(CMS/CMCS); (b)(6)
(b)(6) Maccarroll, Amber
(CMS/CMCS); (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS); (b)(6)
(b)(6) Arnold, Charlie
(CMS/CMCS); (b)(6)
(b)(6) Bonelli, Anna
(CMS/CMCS); (b)(6)
(b)(6) Clark, Jennifer
(CMS/CMCS); (b)(6)
(b)(6) Cuno, Richard
(CMS/CMCS); (b)(6)
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(CMS/CMCS); (b)(6)
(b)(6) Mosley, Elle
(CMS/CMCS); (b)(6)
(b)(6); adams, lia (CMS/CMCS)
(b)(6)

Subject: RE: RE: [External]RE: CA MCO Tax - Technical Assistance

Thanks, Jonathan. These questions look great. Meeting early next week to help finalize the questions in a good idea. I think we should also plan to provide a high-level overview during Joint Clearance next Thursday before sharing our questions with the state.

Rory

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Tuesday, January 31, 2023 4:18 PM
To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Truffer, Christopher (CMS/OACT) <Christopher.Truffer@cms.hhs.gov>; Sagandykov, Makhmud (CMS/OACT) <Makhmud.Sagandykov@cms.hhs.gov>; Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>; 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>; 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>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>
Subject: RE: [External]RE: CA MCO Tax - Technical Assistance

Dear all,

Disregarding the 75% "reduction", the tax amount is \$8,929,290,630 which is a \$6,866,576,595. The 6% number went from 3.69% to 4.36%. The M1/M2 improved slightly from 0.46 to 0.501.

My advice:

1. Tell the state to get rid of the 75% reduction. It does not make sense and is confusing. Some other states, like MI for their NF tax, did something similar. We told them not to do so in the future.
2. Tell the state to get rid of the future years "projections."
3. Inform the state that we will not make reference to future years in our tax waiver approval letters, but to a set of rates that are good in a waiver as of the effective date of the waiver until the state makes any non-uniform changes as long as they are compliant with all other federal requirements.
4. Inform the state that any rulemaking we do on closing the loophole will be prospective in nature and will not apply to this waiver request because retrospective rulemaking is very rare. We would still look closely at this request to determine if there is a hold harmless arrangement. This approach would need OGD and OCD approval.
5. Ask the state of a column showing the increased payments made to the MCOs that are subject to the tax.
6. Ask the state for a comprehensive description of what the tax is going to fund.
7. Ask the state to verify the jump in net patient revenue and the number of providers. I would recommend providing the old spreadsheet and comparing it to the new spreadsheet to show them what happened.
8. Ask the state to provide a copy of the state law or laws authorizing the new tax when they have it.
9. Ask the state about informing us what the effective date they are seeking is when they have it.
10. Ask the state to let us know when they might be submitting a tax waiver narrative PDF.
11. Inform the state that we plan on issuing tax waiver submission best practices in the future that will be of assistance in setting baseline expectations for tax waivers and tell them to be on the lookout for that.
12. I think it probably will be helpful to have a separate meeting on the CA MCO tax waiver sometime early next week to go over what we are going to ask. If others agree, I will send out a meeting invite.

Best,

Jonathan

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

Sent: Tuesday, January 31, 2023 12:38 PM

To: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Truffer, Christopher (CMS/OACT) <Christopher.Truffer@cms.hhs.gov>; Sagandykov, Makhmud (CMS/OACT) <Makhmud.Sagandykov@cms.hhs.gov>; Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>; 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>; 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>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>

Subject: RE: [External]RE: CA MCO Tax - Technical Assistance

Regarding the estimates for future years, they always do that. Usually we ignore the other years. I think we would ignore them this time as well. And we wrote the future years into the tax waiver request when, in retrospect, we probably should not have because that makes us look like we are approving and/or endorsing it. My recommendation would be if and when we do approve this waiver, that we don't list the future years. The tax waiver best practices makes clear that we do not want states to estimate out for future years. Hopefully, once we issue it, CA will stop doing it. Although, because it isn't regulation and there's nothing to compel them, there's not much we can do if they don't.

Best,

Jonathan

From: Fan, Kristin (CMS/CMCS) <Kristin.Fan@cms.hhs.gov>
Sent: Tuesday, January 31, 2023 12:31 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Truffer, Christopher (CMS/OACT) <Christopher.Truffer@cms.hhs.gov>; Sagandykov, Makhmud (CMS/OACT) <Makhmud.Sagandykov@cms.hhs.gov>; Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>; 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>; 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>; Mosley, Elle (CMS/CMCS) <larrica.mosley@cms.hhs.gov>
Subject: RE: [External]RE: CA MCO Tax - Technical Assistance

I would agree. I was quickly glancing through and a lot of it doesn't make sense. Most concerning is the massive jump in plans and member months. What assumption are they using and how can they estimate the out years?

From: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>
Sent: Tuesday, January 31, 2023 11:41 AM
To: Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Truffer, Christopher (CMS/OACT) <Christopher.Truffer@cms.hhs.gov>; Sagandykov, Makhmud (CMS/OACT) <Makhmud.Sagandykov@cms.hhs.gov>; Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>; 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>; 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: CA MCO Tax - Technical Assistance

Dear all,

The numbers that California provided in its spreadsheet don't make sense. They state that the tax on Medi-Cal Member months is **\$8,774,697,200** and the tax on all member months is **\$6,696,967,973**. The total tax cannot be less than the tax on Medi-Cal member months. For some reason, they add the "Medi-Cal" tax to the "commercial tax" number and then multiply the result by 75%. Why they multiply the result by 75% I have no idea. We should ask them.

In general the net patient revenues appears to have skyrocketed from \$55,884,414,440 in 2019-2020 to \$157,163,723,386 in 2023. That is almost a threefold increase. Likewise, the number of plans more than doubled from the previous version of the tax from 37 to 90 plans. The tax amount more than tripled from \$2,062,714,035 to \$6,696,967,973.

I believe that we should also ask about the tremendous increase in the number of plans as well as the net patient revenue.

I don't think we can calculate the M1/M2 for the new tax until we get an answer on the "total tax" question and where the "75% reduction" comes from. Please see attached for changes.

Best,

Jonathan

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

Sent: Tuesday, January 31, 2023 9:54 AM

To: Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Truffer, Christopher (CMS/OACT) <Christopher.Truffer@cms.hhs.gov>; Sagandykov, Makhmud (CMS/OACT) <Makhmud.Sagandykov@cms.hhs.gov>; Wong, Mark (CMS/CMCS) <Mark.Wong@cms.hhs.gov>; 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>; 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: CA MCO Tax - Technical Assistance

Dear all,

Please see attached California's tax waiver spreadsheet for its 2023 MCO tax. As usual, California continues to submit B1/B2 calculations for multiple years in the future despite the fact that we have told them not to and that we will only review them for one year. I will start comparing this with what they have approved now and running the M1/M2 on it for the sake of comparison.

Best,

Jonathan

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

Sent: Tuesday, January 31, 2023 9:35 AM

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

Subject: FW: [External]RE: CA MCO Tax - Technical Assistance

From: Harrington, Lindy@DHCS <Lindy.Harrington@dhcs.ca.gov>

Sent: Sunday, January 29, 2023 11:07 PM

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

Cc: Cooper, Jacey@DHCS <Jacey.Cooper@dhcs.ca.gov>

Subject: RE: [External]RE: CA MCO Tax - Technical Assistance

Hi Rory – Wanted to share the draft model we'd like to discuss on Tuesday. Thank you.

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

Sent: Tuesday, January 24, 2023 5:30 AM

To: Harrington, Lindy@DHCS <Lindy.Harrington@dhcs.ca.gov>

Subject: [External]RE: CA MCO Tax - Technical Assistance

Hi Lindy,

We have a key member of our team out on Monday and have an immovable conflict on Tuesday at that time. Any chance either 2PM EST on Tuesday 1/31 or Wednesday 2/1 at 1PM EST would work?

Thanks,
Rory

From: Harrington, Lindy@DHCS <Lindy.Harrington@dhcs.ca.gov>
Sent: Monday, January 23, 2023 8:25 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: CA MCO Tax - Technical Assistance

Hi Rory – as discussed on the call last week, we are hoping to get another meeting on calendar with you to discuss the possible CA MCO tax model. Can you let me know if you would be available 10-11am ET (7-8am PT) next Monday or Tuesday?

Lindy Harrington, Deputy Director
Health Care Financing
California Department of Health Care Services
1501 Capitol Avenue, Suite 71.6016, MS 4050
Sacramento, CA 95814-5005
Phone (916) 322-4831 (main)
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Preferred Pronouns – she, her, hers

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Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 2/3/2023 9:40:28 PM
To: Boston, Beverly (CMS/CMCS) (b)(6)
(b)(6)
Subject: RE: 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, Beverly! Have a great weekend!

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Friday, February 3, 2023 4:36 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@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>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Giles, John (CMS/CMCS) <John.Giles1@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>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; Moore (she/her), Z. Yvette (CMS/CMCS) <yvette.moore@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

Great, I'll move it forward for roll-out.

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Friday, February 3, 2023 4:31 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>; Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Giles, John (CMS/CMCS) <John.Giles1@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>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; Moore (she/her), Z. Yvette (CMS/CMCS) <yvette.moore@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

These all look great to me. Thanks, everyone. Have a good weekend!

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Friday, February 3, 2023 2:11 PM
To: Endelman (he/him), Jonathan (CMS/CMCS) <Jonathan.Endelman@cms.hhs.gov>; Giles, John (CMS/CMCS)

<John.Giles1@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>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; Moore (she/her), Z. Yvette (CMS/CMCS) <yvette.moore@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

John Giles, you're the BEST! 😊.

FMG leadership and the rest of the team here will review your line edits to confirm that we are good to go.

Have a great weekend!

Beverly

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

Sent: Friday, February 3, 2023 2:08 PM

To: Giles, John (CMS/CMCS) <John.Giles1@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>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; Moore (she/her), Z. Yvette (CMS/CMCS) <yvette.moore@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 John. Those all look like good changes to me. Beverly, I think everything has been addressed.

Best,

Jonathan

Jonathan Endelman, PhD
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410.786.4738
jonathan.endelman@cms.hhs.gov
7500 Security Blvd.
Mail Stop, S3-14-28

Baltimore, MD 21244-1850

From: Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>

Sent: Friday, February 3, 2023 2:05 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>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; Moore (she/her), Z. Yvette (CMS/CMCS) <yvette.moore@cms.hhs.gov>; Giles, John (CMS/CMCS) <John.Giles1@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

Hi Jonathan – you didn't ask me to read/review the whole letter, but I did. I had just a few edits:

1. I wouldn't lock yourself into only using the term MCO. I made recommended line edits on terminology, as SDPs apply to MCOs, PIHPs, and PAHPs. It would be best to ensure we are referring to all of those managed care plan types. I also included a footnote to help.
2. I added a reference to 438.6(c) since you specifically mention SDPs. I don't want there to be any confusion there.
3. I added a reference to part 438 in the area of the comment. I don't want to mention one specific regulation, as that seems too limiting to me in our ability to request information/documentation. So, I recommend a broad reference to part 438 regulations.

All of my edits are in track for your ease of review. I hope this helps.

Thank you!

John Giles, MPA
Director, Division of Managed Care Policy
Disabled and Elderly Health Programs Group
Center for Medicaid and CHIP Services
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Phone: 240-904-2341
E-mail: John.Giles1@cms.hhs.gov

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

Sent: Friday, February 3, 2023 1:35 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>; Giles, John (CMS/CMCS) <John.Giles1@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) <Laura.Snyder1@cms.hhs.gov>; CMS State Directed Payment <StateDirectedPayment@cms.hhs.gov>; Schoonover, Matthew (CMS/CMCS) <matthew.schoonover@cms.hhs.gov>; Heitt, Melissa (CMS/FCHCO) <Melissa.Heitt@cms.hhs.gov>; Moore (she/her), Z. Yvette (CMS/CMCS) <yvette.moore@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

Hello John and Laura,

There was one comment that we received from OMB in response to our CIB on health care-related taxes that we felt that you would be in a better position to answer than we would. We write, "Where appropriate, states should examine their provider participation agreements and MCO contracts to ensure that providers, as a condition of participation in Medicaid and/or of network participation for a Medicaid managed care plan, agree to provide necessary information to the state." The comment asked, "Are there provisions in managed care regulations in 438 that could be included here?" Since you know the managed care regulations better than we do, we thought you would be the appropriate SMEs to ask on this subject. If we could hear back from you by COB Monday on this point, we would be extremely grateful because the CIB is scheduled for release on February 10, 2023. Thank you for your partnership and assistance.

Best,

Jonathan

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

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

Sent: Friday, February 3, 2023 1:04 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

I agree Kristin. Thanks Jonathan!

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

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7500 Security Blvd.
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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 we can't or shouldn't focus on anything other than the fact that hold harmless arrangements are against federal Medicaid law. They are, of course, but that is not the only motivating factor in issuing the CIB. They say we should cut any reference to the fact that halting these redistribution agreements could help providers with high Medicaid volume and that these financing mechanisms serve to take the focus away from quality health outcomes and towards who can finance the most money to minimize state expenditures while maximizing federal outlays. I think we should push back and say that issuing this CIB will be a positive for the transparency and improve the operation of the Medicaid program. However, I wanted to gauge the temperature of others to see how we wanted to approach this.

Best,

Jonathan

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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

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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>; 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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

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Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 1/6/2023 8:03:21 PM
To: Boston, Beverly (CMS/CMCS); (b)(6)
(b)(6)
Subject: RE: RE: Status and Follow Up on Reactive Statement DUE COB TODAY: CIB Health Care Related Taxes and Hold Harmless Arrangements

Hi, Beverly. I do have a number of edits and plan to send by 4:30 or so. Let me know if you have any concerns on timing. Happy Friday!

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

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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,

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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

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Message

From: Tsai, Daniel (CMS/CMCS) (b)(6)
(b)(6)
Sent: 2/14/2023 9:56:05 PM
To: Barker, Thomas [TBarker@foleyhoag.com]
CC: Perrie Briskin (CMS/OA) (perrie.briskin@cms.hhs.gov) [perrie.briskin@cms.hhs.gov]
Subject: RE: RE: Speaking request

Hi Tom

Great to hear from you

Cc'ing Perrie on my team – I think we can line some folks up

Hope you're well
-Dan

From: Barker, Thomas <TBarker@foleyhoag.com>
Sent: Wednesday, January 25, 2023 11:30 AM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Subject: Speaking request

Hi Dan:

I hope that the new year is treating you well and that you're enjoying your time at CMS. Working there was definitely one of the high points of my career and I hope you're enjoying it as well.

I wanted to ask for your help on two speaking requests. I'm on the faculty planning committee for the American Health Lawyers Association's Medicare and Medicaid Payment Institute being held in Baltimore on March 22 – 24. We want to have a session at that program on the challenges associated with Medicaid payment for some of the new gene therapies that have been, or will be, approved by the FDA in the coming years. (For example, bluebird bio's new therapy for beta thalassemia or the soon-to-be-approved therapies for sickle cell anemia). I asked John Coster if he'd be interested in speaking on this session, and he suggested that I should make the offer to you first. Is this something that you'd be interested in doing?

In addition, we'd like to do a session on the provisions in the CAA reducing the FMAP increase that was enacted at the outset of the pandemic and allowing states to begin conducting eligibility redeterminations again. Is there someone in CMCS who you could recommend as a speaker for that session?

Thanks very much for your consideration and please let me know if you have any questions.

Thomas Barker | Partner

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Message

From: Tsai, Daniel (CMS/CMCS) (b)(6)
(b)(6)
Sent: 2/21/2023 7:50:19 PM
To: Briskin, Perrie (CMS/CMCS) (b)(6)
(b)(6)
CC: Costello, Anne Marie (CMS/CMCS) (b)(6)
(b)(6) Howe, Rory
(CMS/CMCS) (b)(6)
(b)(6)
Subject: Re: Re: E&C Majority Inquiry - Hold Harmless

Thanks

From: Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>
Sent: Tuesday, February 21, 2023 11:21:22 AM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Cc: Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: FW: E&C Majority Inquiry - Hold Harmless

Dan – FYI.

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)

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Message

From: Tsai, Daniel (CMS/CMCS) (b)(6)
(b)(6)
Sent: 2/15/2023 10:40:21 PM
To: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
CC: Hebert, Krista (CMS/CMCS) (b)(6)
(b)(6); Briskin, Perrie
(CMS/CMCS) (b)(6)
(b)(6)
Subject: RE: RE: Tax CIB Draft - Redline Edits

Yes - thanks

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 4:53 PM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Cc: Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>
Subject: RE: Tax CIB Draft - Redline Edits

Hi Dan,

Preliminarily, OGC/CMDS is okay with changing the four references in the letter from "taxes containing a hold harmless arrangement" to "tax program containing a hold harmless arrangement." CMDS is confirming with the OGC litigators, but expects them to support the change as well. Based on this feedback, I plan to update the CIB as long as you are okay with the language.

Thanks,
Rory

From: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 11:30 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>
Subject: RE: Tax CIB Draft - Redline Edits

Great, thanks. Pls let me know what language you suggest on the tax program etc piece – and pls try to catch OGC today. I will call Paul to align as needed. Thanks.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 10:33 AM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Cc: Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>
Subject: Tax CIB Draft - Redline Edits

Please see the redline edits per your request

Message

From: Tsai, Daniel (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/5/2023 7:42:21 PM
To: Briskin, Perrie (CMS/CMCS) (b)(6)
(b)(6)
Subject: Re: Re: Re-Up Medicaid Financing Overview

Thanks. Do we have the paper on the Mc rule that gets at acr (average commercial rate)? Thanks

From: Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>
Sent: Sunday, March 5, 2023 11:24:34 AM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Subject: FW: Re-Up Medicaid Financing Overview

Dan – Is it also worth noting the following for ACBL. I can send to her, if yes.

- On February 17, CMS released a CMS Informational Bulletin (CIB) on “healthcare-related taxes” that include impermissible hold-harmless provider taxes: <https://www.medicaid.gov/federal-policy-guidance/downloads/cib021723.pdf>
- On February 22, CMS also took the following actions:
 - a. FLORIDA: Notified Florida of a CMS Financial Management Review (FMR) of the state’s managed care state directed payments (SDPs) funded by the state’s health-related tax (the same taxes highlighted by the CIB).
 - b. MISSOURI: CMS sent Missouri a question set in advance of a CMS-64 review regarding the state’s pooling/redistribution of funds. Form CMS-64 is a statement of expenditures for which states are entitled to federal reimbursement.
- TEXAS: OIG is currently investigating the provider tax arrangements in Texas.

From: Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>
Sent: Sunday, March 5, 2023 2:12 PM
To: (b)(6) Administrator (CMS/OA) (b)(6)
Cc: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>
Subject: Re-Up Medicaid Financing Overview

Hi Chiquita,

On Friday we mentioned re-upping the SDP and provider taxes overview document ahead of some additional conversations about state activities this week. Here’s what I could find from late last year.

Dan and Perrie may know of other helpful materials.

All the best,
Kyla

Kyla Ellis (she/her/hers)
Senior Advisor to the CMS Administrator



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Message

From: Tsai, Daniel (CMS/CMCS); (b)(6)
(b)(6)
Sent: 1/25/2023 8:21:14 PM
To: Coster, John (CMS/CMCS); (b)(6)
(b)(6); 'Deboy, Alissa M.
(CMS/CMCS)' [alissa.deboy1@cms.hhs.gov]; Denemark, Cynthia (CMS/CMCS); (b)(6)
(b)(6)
Smith, Carrie (CMS/CMCS); (b)(6)
(b)(6)
CC: Perrie Briskin (CMS/OA) (perrie.briskin@cms.hhs.gov) [perrie.briskin@cms.hhs.gov]
Subject: FW: FW: Speaking request

Hi – John/Cindy/team – I think great for you to do the below. Who do you want me to send back to?

On unwinding – Perrie, who should I send to (you or Hannah?)

From: Barker, Thomas <TBarker@foleyhoag.com>
Sent: Wednesday, January 25, 2023 11:30 AM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Subject: Speaking request

Hi Dan:

I hope that the new year is treating you well and that you're enjoying your time at CMS. Working there was definitely one of the high points of my career and I hope you're enjoying it as well.

I wanted to ask for your help on two speaking requests. I'm on the faculty planning committee for the American Health Lawyers Association's Medicare and Medicaid Payment Institute being held in Baltimore on March 22 – 24. We want to have a session at that program on the challenges associated with Medicaid payment for some of the new gene therapies that have been, or will be, approved by the FDA in the coming years. (For example, bluebird bio's new therapy for beta thalassemia or the soon-to-be-approved therapies for sickle cell anemia). I asked John Coster if he'd be interested in speaking on this session, and he suggested that I should make the offer to you first. Is this something that you'd be interested in doing?

In addition, we'd like to do a session on the provisions in the CAA reducing the FMAP increase that was enacted at the outset of the pandemic and allowing states to begin conducting eligibility redeterminations again. Is there someone in CMCS who you could recommend as a speaker for that session?

Thanks very much for your consideration and please let me know if you have any questions.

Thomas Barker | Partner

**FOLEY
HOAG** LLP

FOLEY HOAG LLP
1717 K Street, N.W.
Washington, D.C. 20006-5350

+12022617310 phone

www.foleyhoag.com

Any tax advice included in this document and its attachments was not intended or written to be used, and it cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code.

This email message and any attachments are confidential and may be privileged. If you are not the intended recipient, please notify Foley Hoag LLP immediately -- by replying to this message or by sending an email to postmaster@foleyhoag.com -- and destroy all copies of this message and any attachments without reading or disclosing their contents. Thank you.

For more information about Foley Hoag LLP, please visit us at www.foleyhoag.com.

Message

From: adams, lia (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/14/2023 5:03:39 PM
To: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
CC: Boston, Beverly (CMS/CMCS) (b)(6)
(b)(6); Ferguson, Dorothy
(CMS/CMCS) (b)(6)
(b)(6); Curry, Celestine
(CMS/CMCS) (b)(6)
(b)(6); Maccarroll, Amber
(CMS/CMCS) (b)(6)
(b)(6); Silanskis, Jeremy
(CMS/CMCS) (b)(6)
(b)(6)
Subject: RE: RE: OGD Review Requested: March 22 - OA Issues

Yes, will do. I will email once I move forward.

~ lia

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, March 14, 2023 1:00 PM
To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

Hi, Lia. I finished my edits to the paper on SharePoint and we should be good to go. Would you mind taking one last look through the paper for any errors before moving it forward? Thanks to everyone who worked on this. I know it was required a very quick turnaround!

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Sent: Monday, March 13, 2023 11:19 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>
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Subject: RE: OGD Review Requested: March 22 - OA Issues

Thanks, Rory!

+ Dorothy/Celestine – here is what moved forward:

1. Missouri Deferral – Federal Reimbursement Allowance (FRA) Tax

CMCS will brief and seek concurrence from the Administrator on a recommended Missouri deferral related to the state's FRA tax. As part of the action plan to enforce compliance with non-federal share financing requirements in Missouri (previously briefed on May 26, 2022), CMCS conducted a focused review of

Missouri's hospital tax, known as the 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, CMCS recommends issuing a deferral in the amount of approximately \$236,000,000 to temporarily hold 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.

- Decision deadline: March 20, 2023
- Briefer: Rory Howe, Director, Financial Management Group
- IRA-Related Policies: N/A

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

Sent: Monday, March 13, 2023 11:15 AM

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

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

Subject: RE: OGD Review Requested: March 22 - OA Issues

The blurb is good. Thanks all!

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Sent: Monday, March 13, 2023 7:00 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>

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

Subject: OGD Review Requested: March 22 - OA Issues

Good morning Rory,

Please let me know when the March 22 - OA Issues blurb for the Missouri deferral is ready to be moved forward. It is **due NLT 11:45 AM today**.

Thank you Amber for drafting it!

Thanks,
Lia

Message

From: adams, lia (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/14/2023 5:22:18 PM
To: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Subject: RE: RE: OGD Review Requested: March 22 - OA Issues

Quick question – in the background/context there is this sentence: “CMCS also recommends pursuing deferrals for additional quarters and converting the deferral to disallowances (see timeline in Attachment A) until the state demonstrates its FRA tax meets federal requirements. CMCS expects the state to continue to challenge any possible CMS disallowance action to the HHS Departmental Appeals Board.”

In the recommendation it only mentions deferrals and not a disallowance. Do we want to add that in to be consistent or should I leave as is?

Recommendation: CMCS recommends issuing a deferral in the amount of \$236,629,533 FFP for the CMS-64 quarter ending December, 31 2022 by the 60th day, March 31, 2023. CMCS also recommends pursuing deferrals for additional quarters until the state demonstrates its FRA tax meets federal requirements.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, March 14, 2023 1:10 PM
To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

Thanks again, Lia.

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Sent: Tuesday, March 14, 2023 1:04 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

Yes, will do. I will email once I move forward.

~ lia

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, March 14, 2023 1:00 PM
To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
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Subject: RE: OGD Review Requested: March 22 - OA Issues

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Sent: Monday, March 13, 2023 11:19 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>
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Subject: RE: OGD Review Requested: March 22 - OA Issues

Thanks, Rory!

+ Dorothy/Celestine – here is what moved forward:

1. Missouri Deferral – Federal Reimbursement Allowance (FRA) Tax

CMCS will brief and seek concurrence from the Administrator on a recommended Missouri deferral related to the state's FRA tax. As part of the action plan to enforce compliance with non-federal share financing requirements in Missouri (previously briefed on May 26, 2022), CMCS conducted a focused review of Missouri's hospital tax, known as the 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, CMCS recommends issuing a deferral in the amount of approximately \$236,000,000 to temporarily hold 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.

- Decision deadline: March 20, 2023
- Briefer: Rory Howe, Director, Financial Management Group
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The blurb is good. Thanks all!

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Good morning Rory,

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Thank you Amber for drafting it!

Thanks,
Lia

Message

From: adams, lia (CMS/CMCS); (b)(6)
(b)(6)
Sent: 3/14/2023 5:33:41 PM
To: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6)
CC: Boston, Beverly (CMS/CMCS); (b)(6)
(b)(6); Ferguson, Dorothy
(CMS/CMCS); (b)(6)
(b)(6); Curry, Celestine
(CMS/CMCS); (b)(6)
(b)(6); Maccarroll, Amber
(CMS/CMCS); (b)(6)
(b)(6); Silanskis, Jeremy
(CMS/CMCS); (b)(6)
(b)(6)
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- Decision deadline: March 20, 2023
- Briefer: Rory Howe, Director, Financial Management Group
- IRA-Related Policies: N/A

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

Sent: Monday, March 13, 2023 11:15 AM

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

Subject: RE: OGD Review Requested: March 22 - OA Issues

The blurb is good. Thanks all!

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Sent: Monday, March 13, 2023 7:00 AM

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Thank you Amber for drafting it!

Thanks,
Lia

Message

From: adams, lia (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/14/2023 5:49:19 PM
To: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
CC: Boston, Beverly (CMS/CMCS) (b)(6)
(b)(6); Ferguson, Dorothy
(CMS/CMCS) (b)(6)
(b)(6) Curry, Celestine
(CMS/CMCS) (b)(6)
(b)(6) Maccarroll, Amber
(CMS/CMCS) (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS) (b)(6)
Subject: RE: RE: OGD Review Requested: March 22 - OA Issues

Great, thanks Rory! The paper has moved forward.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Tuesday, March 14, 2023 1:47 PM
To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

Thanks for the catch, Lia. I think it is good if they are consistent. I just added a quick note to the recommendation. We are good whenever you are.

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Sent: Tuesday, March 14, 2023 1:34 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
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Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

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+ Dorothy/Celestine – here is what moved forward:

1. Missouri Deferral – Federal Reimbursement Allowance (FRA) Tax

CMCS will brief and seek concurrence from the Administrator on a recommended Missouri deferral related to the state's FRA tax. As part of the action plan to enforce compliance with non-federal share financing requirements in Missouri (previously briefed on May 26, 2022), CMCS conducted a focused review of Missouri's hospital tax, known as the 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, CMCS recommends issuing a deferral in the amount of approximately \$236,000,000 to temporarily hold 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.

- Decision deadline: March 20, 2023
- Briefer: Rory Howe, Director, Financial Management Group
- IRA-Related Policies: N/A

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Monday, March 13, 2023 11:15 AM
To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>

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

Subject: RE: OGD Review Requested: March 22 - OA Issues

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Sent: Monday, March 13, 2023 7:00 AM

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Subject: OGD Review Requested: March 22 - OA Issues

Good morning Rory,

Please let me know when the March 22 - OA Issues blurb for the Missouri deferral is ready to be moved forward. It is **due NLT 11:45 AM today**.

Thank you Amber for drafting it!

Thanks,

Lia

Message

From: adams, lia (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/15/2023 5:46:26 PM
To: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
CC: Boston, Beverly (CMS/CMCS) (b)(6); Ferguson, Dorothy (CMS/CMCS) (b)(6); Curry, Celestine (CMS/CMCS) (b)(6); Maccarroll, Amber (CMS/CMCS) (b)(6); Silanskis, Jeremy (CMS/CMCS) (b)(6)
Subject: RE: RE: OGD Review Requested: March 22 - OA Issues

Anne Marie has reviewed the Missouri deferral issues brief.

~ lia

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Quick question – in the background/context there is this sentence: “CMCS also recommends pursuing deferrals for additional quarters and converting the deferral to disallowances (see timeline in Attachment A) until the state demonstrates its FRA tax meets federal requirements. CMCS expects the state to continue to challenge any possible CMS disallowance action to the HHS Departmental Appeals Board.”

In the recommendation it only mentions deferrals and not a disallowance. Do we want to add that in to be consistent or should I leave as is?

Recommendation: CMCS recommends issuing a deferral in the amount of \$236,629,533 FFP for the CMS-64 quarter ending December, 31 2022 by the 60th day, March 31, 2023. CMCS also recommends pursuing deferrals for additional quarters until the state demonstrates its FRA tax meets federal requirements.

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Subject: RE: OGD Review Requested: March 22 - OA Issues

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Subject: RE: OGD Review Requested: March 22 - OA Issues

Thanks, Rory!

+ Dorothy/Celestine – here is what moved forward:

1. **Missouri Deferral – Federal Reimbursement Allowance (FRA) Tax**

CMCS will brief and seek concurrence from the Administrator on a recommended Missouri deferral related to the state's FRA tax. As part of the action plan to enforce compliance with non-federal share financing requirements in Missouri (previously briefed on May 26, 2022), CMCS conducted a focused review of Missouri's hospital tax, known as the 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, CMCS recommends issuing a deferral in the amount of approximately \$236,000,000 to temporarily hold 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.

- Decision deadline: March 20, 2023
- Briefer: Rory Howe, Director, Financial Management Group
- IRA-Related Policies: N/A

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Subject: OGD Review Requested: March 22 - OA Issues

Good morning Rory,

Please let me know when the March 22 - OA Issues blurb for the Missouri deferral is ready to be moved forward. It is **due NLT 11:45 AM today**.

Thank you Amber for drafting it!

Thanks,

Lia

Message

From: Maccarroll, Amber (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/15/2023 5:47:26 PM
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(b)(6) Howe, Rory (CMS/CMCS)
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(b)(6) Ferguson, Dorothy
(CMS/CMCS) (b)(6)
(b)(6) Curry, Celestine
(CMS/CMCS) (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS) (b)(6)
Subject: RE: RE: OGD Review Requested: March 22 - OA Issues

Thanks Lia – when are our updates due?

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Sent: Wednesday, March 15, 2023 1:46 PM
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Subject: RE: OGD Review Requested: March 22 - OA Issues

Anne Marie has reviewed the Missouri deferral issues brief.

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Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>

Subject: RE: OGD Review Requested: March 22 - OA Issues

Quick question – in the background/context there is this sentence: “CMCS also recommends pursuing deferrals for additional quarters and converting the deferral to disallowances (see timeline in Attachment A) until the state demonstrates its FRA tax meets federal requirements. CMCS expects the state to continue to challenge any possible CMS disallowance action to the HHS Departmental Appeals Board.”

In the recommendation it only mentions deferrals and not a disallowance. Do we want to add that in to be consistent or should I leave as is?

Recommendation: CMCS recommends issuing a deferral in the amount of \$236,629,533 FFP for the CMS-64 quarter ending December, 31 2022 by the 60th day, March 31, 2023. CMCS also recommends pursuing deferrals for additional quarters until the state demonstrates its FRA tax meets federal requirements.

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Thanks, Rory!

+ Dorothy/Celestine – here is what moved forward:

1. Missouri Deferral – Federal Reimbursement Allowance (FRA) Tax

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hold 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.

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- Briefer: Rory Howe, Director, Financial Management Group
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Subject: OGD Review Requested: March 22 - OA Issues

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Thank you Amber for drafting it!

Thanks,
Lia

Message

From: adams, lia (CMS/CMCS); (b)(6)
(b)(6)
Sent: 3/15/2023 5:51:48 PM
To: Maccarroll, Amber (CMS/CMCS); (b)(6)
(b)(6) Howe, Rory
(CMS/CMCS); (b)(6)
(b)(6)
CC: Boston, Beverly (CMS/CMCS); (b)(6)
(b)(6) Ferguson, Dorothy
(CMS/CMCS); (b)(6)
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(CMS/CMCS); (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS); (b)(6)
(b)(6)
Subject: RE: RE: OGD Review Requested: March 22 - OA Issues

Rewrites are due tomorrow, 3/16 NLT 12 PM ET. Please make any edits/comments in the SharePoint link below.

[LINK](#)

~ lia

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- Decision deadline: March 20, 2023
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Thank you Amber for drafting it!

Thanks,
Lia

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From: Ferguson, Dorothy (CMS/CMCS); (b)(6)
(b)(6)
Sent: 3/15/2023 6:03:53 PM
To: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6); adams, lia (CMS/CMCS)
CC: Boston, Beverly (CMS/CMCS); (b)(6)
(b)(6); Curry, Celestine
(CMS/CMCS); (b)(6)
(b)(6); Maccarroll, Amber
(CMS/CMCS); (b)(6)
(b)(6); Silanskis, Jeremy
(CMS/CMCS); (b)(6)
Subject: RE: RE: OGD Review Requested: March 22 - OA Issues

Here is the % amount that Anne Marie asked in the document.

7.6% of the total MAP federal share claim

MAP line 11 federal share is 3,107,327,583

$236,629,533 / 3,107,327,583 = .07615$

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: Wednesday, March 15, 2023 12:50 PM
To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
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Thanks, Lia. Would you mind sharing the SharePoint link?

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Sent: Wednesday, March 15, 2023 1:46 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS)

<Jeremy.Silanskis@cms.hhs.gov>

Subject: RE: OGD Review Requested: March 22 - OA Issues

Anne Marie has reviewed the Missouri deferral issues brief.

~ lia

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

Sent: Tuesday, March 14, 2023 1:47 PM

To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>

Subject: RE: OGD Review Requested: March 22 - OA Issues

Thanks for the catch, Lia. I think it is good if they are consistent. I just added a quick note to the recommendation. We are good whenever you are.

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Subject: RE: OGD Review Requested: March 22 - OA Issues

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In the recommendation it only mentions deferrals and not a disallowance. Do we want to add that in to be consistent or should I leave as is?

Recommendation: CMCS recommends issuing a deferral in the amount of \$236,629,533 FFP for the CMS-64 quarter ending December, 31 2022 by the 60th day, March 31, 2023. CMCS also recommends pursuing deferrals for additional quarters until the state demonstrates its FRA tax meets federal requirements.

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Subject: RE: OGD Review Requested: March 22 - OA Issues

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Subject: RE: OGD Review Requested: March 22 - OA Issues

Thanks, Rory!

+ Dorothy/Celestine – here is what moved forward:

1. Missouri Deferral – Federal Reimbursement Allowance (FRA) Tax

CMCS will brief and seek concurrence from the Administrator on a recommended Missouri deferral related to the state's FRA tax. As part of the action plan to enforce compliance with non-federal share financing requirements in Missouri (previously briefed on May 26, 2022), CMCS conducted a focused review of Missouri's hospital tax, known as the 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, CMCS recommends issuing a deferral in the amount of approximately \$236,000,000 to temporarily hold 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.

- Decision deadline: March 20, 2023
- Briefer: Rory Howe, Director, Financial Management Group
- IRA-Related Policies: N/A

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
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Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

The blurb is good. Thanks all!

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Sent: Monday, March 13, 2023 7:00 AM
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Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: OGD Review Requested: March 22 - OA Issues

Good morning Rory,

Please let me know when the March 22 - OA Issues blurb for the Missouri deferral is ready to be moved forward. It is **due NLT 11:45 AM today**.

Thank you Amber for drafting it!

Thanks,
Lia

Message

From: Ferguson, Dorothy (CMS/CMCS) (b)(6)
(b)(6)
Sent: 3/15/2023 6:13:26 PM
To: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6); adams, lia (CMS/CMCS)
CC: Boston, Beverly (CMS/CMCS) (b)(6)
(b)(6); Curry, Celestine
(CMS/CMCS) (b)(6)
(b)(6); Maccarroll, Amber
(CMS/CMCS) (b)(6)
(b)(6); Silanskis, Jeremy
(CMS/CMCS) (b)(6)
Subject: RE: RE: OGD Review Requested: March 22 - OA Issues

If we include the admin expenditures as well it is 7.45%, so not that much of a difference.

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

From: Ferguson, Dorothy (CMS/CMCS)
Sent: Wednesday, March 15, 2023 1:04 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>; adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

Here is the % amount that Anne Marie asked in the document.

7.6% of the total MAP federal share claim

MAP line 11 federal share is 3,107,327,583

$236,629,533 / 3,107,327,583 = .07615$

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: Wednesday, March 15, 2023 12:50 PM
To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
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Anne Marie has reviewed the Missouri deferral issues brief.

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Thanks, Rory!

+ Dorothy/Celestine – here is what moved forward:

1. Missouri Deferral – Federal Reimbursement Allowance (FRA) Tax

CMCS will brief and seek concurrence from the Administrator on a recommended Missouri deferral related to the state's FRA tax. As part of the action plan to enforce compliance with non-federal share financing requirements in Missouri (previously briefed on May 26, 2022), CMCS conducted a focused review of Missouri's hospital tax, known as the 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, CMCS recommends issuing a deferral in the amount of approximately \$236,000,000 to temporarily hold 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.

- Decision deadline: March 20, 2023
- Briefer: Rory Howe, Director, Financial Management Group
- IRA-Related Policies: N/A

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Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Subject: OGD Review Requested: March 22 - OA Issues

Good morning Rory,

Please let me know when the March 22 - OA Issues blurb for the Missouri deferral is ready to be moved forward. It is **due NLT 11:45 AM today**.

Thank you Amber for drafting it!

Thanks,
Lia

Message

From: adams, lia (CMS/CMCS); (b)(6)
(b)(6)
Sent: 3/16/2023 2:48:18 PM
To: Howe, Rory (CMS/CMCS); (b)(6)
(b)(6); Maccarroll, Amber
(CMS/CMCS); (b)(6)
(b)(6)
CC: Boston, Beverly (CMS/CMCS); (b)(6)
(b)(6); Ferguson, Dorothy
(CMS/CMCS); (b)(6)
(b)(6); Curry, Celestine
(CMS/CMCS); (b)(6)
(b)(6); Silanskis, Jeremy
(CMS/CMCS); (b)(6)
(b)(6)
Subject: RE: RE: OGD Review Requested: March 22 - OA Issues

Thanks, Rory! I will flag for Lela that we have completed our rewrites.

~ lia

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Thursday, March 16, 2023 10:45 AM
To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

Hi Lia. The paper is good to go. Thanks!

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>
Sent: Wednesday, March 15, 2023 1:52 PM
To: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>; Ferguson, Dorothy (CMS/CMCS) <Dorothy.Ferguson@cms.hhs.gov>; Curry, Celestine (CMS/CMCS) <Celestine.Curry@cms.hhs.gov>; Silanskis, Jeremy (CMS/CMCS) <Jeremy.Silanskis@cms.hhs.gov>
Subject: RE: OGD Review Requested: March 22 - OA Issues

Rewrites are due tomorrow, 3/16 NLT 12 PM ET. Please make any edits/comments in the SharePoint link below.

[LINK](#)

~ lia

From: Maccarroll, Amber (CMS/CMCS) <Amber.MacCarroll@cms.hhs.gov>
Sent: Wednesday, March 15, 2023 1:47 PM

To: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>; Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

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Subject: RE: OGD Review Requested: March 22 - OA Issues

Thanks Lia – when are our updates due?

From: adams, lia (CMS/CMCS) <Lia.Adams@cms.hhs.gov>

Sent: Wednesday, March 15, 2023 1:46 PM

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Subject: RE: OGD Review Requested: March 22 - OA Issues

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From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)

Sent: 4/21/2023 2:41:03 PM

To: Maccarroll, Amber (CMS/CMCS) (b)(6)
(b)(6); Silanskis, Jeremy D.
(CMS/CMCS) (Jeremy.Silanskis@cms.hhs.gov) (b)(6)
(b)(6); Fan, Kristin (CMS/CMCS) (b)(6)
(b)(6)
Arnold, Charlie (CMS/CMCS) (b)(6)
(b)(6); Clark, Jennifer
(CMS/CMCS) (b)(6)
(b)(6); Goldstein, Stuart
(CMS/CMCS) (b)(6)
(b)(6); Cuno, Richard
(CMS/CMCS) (b)(6)
(b)(6); Endelman (he/him),
Jonathan (CMS/CMCS) (b)(6)
(b)(6)

Subject: FW: FW: Texas Congressional Delegation Letter on the CMS Informational Bulletin (the "Bulletin") entitled "Health Care-Related Taxes and Hold Harmless Arrangements Involving the Redistribution of Medicaid Payments"

Attachments: Texas Delegation CMS Letter on the Bulletin on Health Care-Related Taxes and Hold Harmless Arrangements Involving the Redistribution of Medicaid Payments.pdf

FYI

HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515
April 19, 2023

The Honorable Xavier Becerra
Secretary, U.S. Department of Health &
Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 2021

The Honorable Daniel Tsai
The Deputy Administrator and Director
Center for Medicaid and CHIP Services
Centers for Medicare and Medicaid
Services
U.S. Department of Health and Human
Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Becerra, Administrator Brooks-LaSure, and Deputy Administrator and Director Tsai:

As members of the Texas Congressional Delegation, we have worked with President Biden and with you to improve access to care for all Americans, regardless of income or need. We applaud the Department of Health and Human Services (“HHS”) for its dedication to sustaining and strengthening the health care safety net. The Administration’s investment in the Medicaid program is invaluable, particularly as we transition out of a global public health emergency. We share the Administration’s commitment to supporting our most vulnerable communities and stand ready to assist with your agency’s laudable efforts.

However, while we closely align with your mission, we are deeply concerned by the Informational Bulletin (the “Bulletin”) entitled “Health Care-Related Taxes and Hold Harmless Arrangements Involving the Redistribution of Medicaid Payments”, which was released by the Centers for Medicare & Medicaid Services (“CMS”) on February 17, 2023. The Bulletin echoes many of the themes of the Medicaid Fiscal Accountability Regulation (“MFAR”) proposed in 2019. The Bulletin specifically revives the agency’s attempts to assert its jurisdiction over wholly private arrangements between hospitals, lacking any state involvement.

As you may recall, the MFAR proposed rule received such strong bipartisan opposition that President Trump’s Administration initiated its withdrawal. President Biden also

noted his opposition to MFAR as part of his campaign platform, followed by HHS taking quick action to withdraw the proposed rule in January 2021. Like President Biden, we recognized the existential threat the proposed policies posed to our communities' hospitals and the Medicaid beneficiaries they serve, prompting us to introduce bipartisan legislation that would have halted any implementation of the MFAR proposed rule.

It is clear, however, that some within CMS continue to push the MFAR agenda despite its withdrawal and the agency lacking the authority to set forth such provider tax policies. In fact, the Office of Inspector General ("OIG") previously opined that there are no regulations to preclude this type of arrangement. Moreover, when CMS raised this issue last year in federal court, a federal judge in Texas reasoned that CMS's legal position was not at all in line with the Medicaid statute. In short, the Bulletin is a significant and inappropriate shift in policy by CMS that is inconsistent with current law and the agency's own history of enforcement action.

A policy shift of this significance threatens not only the most vulnerable citizens of our home state, but Medicaid beneficiaries across the country. We question what good this policy shift will have for the health care safety net and how it will ensure equitable access to care for patients. In the nearly four years since CMS first announced its MFAR proposal, not a single time has CMS staff been able to quantify the impact or assure us that this policy will not disrupt equitable access to care.

Moreover, we wish to emphasize that the local provider taxes under attack serve a critical purpose: they provide an avenue for hospitals that have historically struggled to gain access to much-needed supplemental Medicaid payments. This path is a lifeline for hospitals along the southern border and in the 89 Texas counties where non-governmental hospitals are the primary providers for Medicaid patients—areas where Medicaid beneficiaries already have limited access to care. Absent the local financing mechanism, these hospitals, and the patients they serve once again face disenfranchisement.

For these reasons, we ask CMS to withdraw the Bulletin and refrain from seeking to enforce it until the agency can determine the impact it will have on the providers serving our Medicaid beneficiaries. Unless we understand how this policy enhances, rather than reduces equitable access to care, we will continue in our efforts to oppose the agency's policies.

Thank you for your attention to this very important matter.

Very Truly Yours,

(b)(6)

Sheila Jackson Lee
Member of Congress

(b)(6)

Colin Z. Alfred
Member of Congress

(b)(6)

Joaquin Castro
Member of Congress

(b)(6)

Jasmin G. Gockett
Member of Congress

(b)(6)

Henry Cuellar
Member of Congress

(b)(6)

Marc A. Velasco
Member of Congress

(b)(6)

Vicente Gonzalez
Member of Congress

LIST INFORMATION

Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 1/6/2023 9:08:01 PM
To: Boston, Beverly (CMS/CMCS) (b)(6)
(b)(6) Fan, Kristin (CMS/CMCS)
(b)(6) Arnold, Charlie
(CMS/CMCS) (b)(6)
(b)(6); Clark, Jennifer
(CMS/CMCS) (b)(6)
(b)(6) Goldstein, Stuart
(CMS/CMCS) (b)(6)
(b)(6) Cuno, Richard
(CMS/CMCS) (b)(6)
CC: (b)(6)
Maccarroll, Amber (CMS/CMCS) (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS) (b)(6)
(b)(6); adams, lia (CMS/CMCS)
Subject: RE: 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

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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) <Jennifer.Lindstrom@cms.hhs.gov>; 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)

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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 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

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Message

From: Howe, Rory (CMS/CMCS) <(b)(6)>
(b)(6)
Sent: 2/8/2023 9:39:11 PM
To: Boston, Beverly (CMS/CMCS) <(b)(6)>
(b)(6)
Subject: RE: RE: STATUS: CIB Health Care Related Taxes and Hold Harmless Arrangements

Thanks, Beverly. I talked with Dan live about the timing earlier in the week. He asked me to call the FL SMD the same day as the CIB release, then to release the engagement letter the following Wednesday. I plan to raise with Dan again tomorrow.

From: Boston, Beverly (CMS/CMCS) <Beverly.Boston@cms.hhs.gov>
Sent: Wednesday, February 8, 2023 3:39 PM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Subject: RE: STATUS: CIB Health Care Related Taxes and Hold Harmless Arrangements

Okay, the OCD releases team thought they heard you were to connect with the SMD the Weds after release of the CIB, but I questioned whether it was the Weds prior? I was asked to confirm that with you, so good idea to check with OCD.

Thanks

Beverly

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Wednesday, February 8, 2023 3:36 PM
To: Boston, Beverly (CMS/CMCS) <Beverly.Boston@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>; 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: CIB Health Care Related Taxes and Hold Harmless Arrangements

Yes, we just heard the release date for the CIB in now 2/17. I will double check on the Florida FMR engagement letter.

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: STATUS: 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)
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Division of Financial Policy (DFP)
410.786.4738
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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 we can't or shouldn't focus on anything other than the fact that hold harmless arrangements are against federal Medicaid law. They are, of course, but that is not the only motivating factor in issuing the CIB. They say we should cut any reference to the fact that halting these redistribution agreements could help providers with high Medicaid volume and that these financing mechanisms serve to take the focus away from quality health outcomes and towards who can finance the most money to minimize state expenditures while maximizing federal outlays. I think we should push back and say that issuing this CIB will be a positive for the transparency and improve the operation of the Medicaid program. However, I wanted to gauge the temperature of others to see how we wanted to approach this.

Best,

Jonathan

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Social Science Research Analyst
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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

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Sent: Tuesday, January 3, 2023 1:35 PM
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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) <Abuko.Estrada@cms.hhs.gov>; 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

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the information. Unauthorized disclosure may result in disciplinary action or prosecution to the full extent of the law.

Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 2/8/2023 8:35:47 PM
To: Boston, Beverly (CMS/CMCS) (b)(6)
(b)(6) Fan, Kristin (CMS/CMCS)
(b)(6) Endelman (he/him),
Jonathan (CMS/CMCS) (b)(6)
(b)(6); Arnold, Charlie
(CMS/CMCS) (b)(6)
(b)(6) Clark, Jennifer
(CMS/CMCS) (b)(6)
(b)(6) Goldstein, Stuart
(CMS/CMCS) (b)(6)
(b)(6) Cuno, Richard
(CMS/CMCS) (b)(6)
(b)(6)
CC: Maccarroll, Amber (CMS/CMCS) (b)(6)
(b)(6) Silanskis, Jeremy
(CMS/CMCS) (b)(6)
(b)(6) adams, lia (CMS/CMCS)
Subject: RE: RE: STATUS: CIB Health Care Related Taxes and Hold Harmless Arrangements

Yes, we just heard the release date for the CIB in now 2/17. I will double check on the Florida FMR engagement letter.

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: STATUS: 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
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Center for Medicaid and CHIP Services (CMCS)
Financial Management Group (FMG)
Division of Financial Policy (DFP)
410.786.4738
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7500 Security Blvd.
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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 we can't or shouldn't focus on anything other than the fact that hold harmless arrangements are against federal Medicaid law. They are, of course, but that is not the only motivating factor in issuing the CIB. They say we should cut any reference to the fact that halting these redistribution agreements could help providers with high Medicaid volume and that these financing mechanisms serve to take the focus away from quality health outcomes and towards who can finance the most money to minimize state expenditures while maximizing federal outlays. I think we should push back and say that issuing this CIB will be a positive for the transparency and improve the operation of the Medicaid program. However, I wanted to gauge the temperature of others to see how we wanted to approach this.

Best,

Jonathan

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 410.786.4738
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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

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Sent: Tuesday, January 3, 2023 1:35 PM
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[<Ingrid.Brentzel@cms.hhs.gov>](mailto:Ingrid.Brentzel@cms.hhs.gov); Graham, John (CMS/CPI) [<John.Graham@cms.hhs.gov>](mailto:John.Graham@cms.hhs.gov); Wilson-Coe, Tomiko (CMS/CPI) [<Tomiko.Wilson-Coe@cms.hhs.gov>](mailto:Tomiko.Wilson-Coe@cms.hhs.gov); Allen, Nakia (CMS/CPI) [<nakia.allen-mcgee@cms.hhs.gov>](mailto:nakia.allen-mcgee@cms.hhs.gov); Ahmad, Namirah (CMS/CPI) [<Namirah.Ahmad@cms.hhs.gov>](mailto:Namirah.Ahmad@cms.hhs.gov); Barkai, Melissa (CMS/CPI) [<Melissa.Barkai@cms.hhs.gov>](mailto:Melissa.Barkai@cms.hhs.gov); Coates, Nikita (CMS/CPI) [<Nikita.Coates@cms.hhs.gov>](mailto:Nikita.Coates@cms.hhs.gov); Mitchell, Dashe (CMS/CPI) [<Dashe.Mitchell@cms.hhs.gov>](mailto:Dashe.Mitchell@cms.hhs.gov); Tott, Karen (CMS/CPI) [<Karen.Tott@cms.hhs.gov>](mailto:Karen.Tott@cms.hhs.gov); Stevenson, Bryant (CMS/CPI) [<bryant.stevenson@cms.hhs.gov>](mailto:bryant.stevenson@cms.hhs.gov); Oelschlaeger, Allison (CMS/OEDA) [<Allison.Oelschlaeger@cms.hhs.gov>](mailto:Allison.Oelschlaeger@cms.hhs.gov); Shatto, Andrew (CMS/OEDA) [<Andrew.Shatto@cms.hhs.gov>](mailto:Andrew.Shatto@cms.hhs.gov); Hitchcock, Katherine (CMS/OEDA) [<Katherine.Hitchcock@cms.hhs.gov>](mailto:Katherine.Hitchcock@cms.hhs.gov); Harper, Bernice (CMS/OEDA) [<Bernice.Harper@cms.hhs.gov>](mailto:Bernice.Harper@cms.hhs.gov); CMS Front Office - CCIIO Clearances [<FrontOffice-CCIIOClearances@cms.hhs.gov>](mailto:FrontOffice-CCIIOClearances@cms.hhs.gov); Wu (he/him), Jeff (CMS/CCIIO) [<Jeff.Wu@cms.hhs.gov>](mailto:Jeff.Wu@cms.hhs.gov); Wilson, Lisa (CMS/CCIIO) [<lisa.wilson@cms.hhs.gov>](mailto:lisa.wilson@cms.hhs.gov); Oconnor, Nancy (CMS/OPOLE) [<Nancy.OConnor@cms.hhs.gov>](mailto:Nancy.OConnor@cms.hhs.gov); Rosta (she/her), Sara (CMS/CCIIO) [<Sara.Rosta@cms.hhs.gov>](mailto:Sara.Rosta@cms.hhs.gov); Arapi, Leslie (CMS/OPOLE) [<Leslie.Arapi@cms.hhs.gov>](mailto:Leslie.Arapi@cms.hhs.gov); Frimpong, Janny (CMS/CCIIO) [<Janny.Frimpong@cms.hhs.gov>](mailto:Janny.Frimpong@cms.hhs.gov); Brooks, Kiahana (CMS/CCIIO) [<Kiahana.Brooks@cms.hhs.gov>](mailto:Kiahana.Brooks@cms.hhs.gov); 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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

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Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 2/14/2023 12:49:16 AM
To: Bonelli, Anna (CMS/CMCS) (b)(6); Maccarroll, Amber
(CMS/CMCS) (b)(6); Silanskis, Jeremy
(CMS/CMCS) (b)(6)
CC: Walker, Abigail (CMS/CMCS) (b)(6)
Subject: Re: Re: Quick take on an "alternative considered"?

Thanks, Anna. This looks good to me.

From: Bonelli, Anna (CMS/CMCS) <Anna.Bonelli@cms.hhs.gov>
Sent: Monday, February 13, 2023 7:39:07 PM
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>
Cc: Walker, Abigail (CMS/CMCS) <Abigail.Walker@cms.hhs.gov>
Subject: Quick take on an "alternative considered"?

Hi Rory, Amber, and Jeremy,

As we discussed, I took OMB's comment in our financing provision, and moved the concept to the section on "Alternatives Considered." Not having written this section previously, I'm winging it a bit, particularly because it's pens down today. But if you and take a quick look at this paragraph, we might improve it. I'm cc'ing Abby the reg-writing wonder. Attaching OMB's comment for reference. See last page.

Regarding financing the non-Federal share, we considered incorporating the requirements into 42 CFR part 438 broadly, rather than limiting to SDPs through § 438.6(c)(2)(ii). A broader implementation of § 438.6(c)(2)(ii)(G) and (H) would ensure that CMS may deny all types of payments under 42 CFR part 438—including capitation payments and passthrough payments—that does not comply with non-Federal share financing requirements under 42 CFR part 433, as well as ensure that each entity receiving a payment under a managed care arrangement would attest that it does not participate in any hold harmless arrangements with respect to any health care-related tax, as specified in § 433.68(f)(3). We determined that we had most often encountered potentially noncompliant non-Federal share financing within SDPs. Given that all Federal legal requirements for the financing of the non-Federal share, including but not limited to, 42 CFR part 433, subpart B, apply regardless of delivery system, we solicit public comment on whether the proposed changes in § 438.6(c)(2)(ii)(G) and (H) should be incorporated broadly into 42 CFR part 438.

Anna Bonelli | Senior Policy Advisor | CMS/CMCS | (443) 615-1268 | anna.bonelli@cms.hhs.gov

Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 2/15/2023 9:53:06 PM
To: Tsai, Daniel (CMS/CMCS) (b)(6)
(b)(6)
CC: Hebert, Krista (CMS/CMCS) (b)(6)
(b)(6); Briskin, Perrie
(CMS/CMCS) (b)(6)
(b)(6)
Subject: RE: RE: Tax CIB Draft - Redline Edits

Hi Dan,

Preliminarily, OGC/CMSD is okay with changing the four references in the letter from "taxes containing a hold harmless arrangement" to "tax program containing a hold harmless arrangement." CMSD is confirming with the OGC litigators, but expects them to support the change as well. Based on this feedback, I plan to update the CIB as long as you are okay with the language.

Thanks,
Rory

From: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 11:30 AM
To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Cc: Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>
Subject: RE: Tax CIB Draft - Redline Edits

Great, thanks. Pls let me know what language you suggest on the tax program etc piece – and pls try to catch OGC today. I will call Paul to align as needed. Thanks.

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>
Sent: Wednesday, February 15, 2023 10:33 AM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Cc: Hebert, Krista (CMS/CMCS) <krista.hebert@cms.hhs.gov>
Subject: Tax CIB Draft - Redline Edits

Please see the redline edits per your request

Message

From: Howe, Rory (CMS/CMCS) (b)(6)
(b)(6)
Sent: 1/9/2023 9:30:43 PM
To: Boston, Beverly (CMS/CMCS); (b)(6)
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(b)(6); Arnold, Charlie
(CMS/CMCS) (b)(6)
(b)(6); Clark, Jennifer
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(CMS/CMCS) (b)(6)
(b)(6); Cuno, Richard
(CMS/CMCS) (b)(6)
CC: Maccarroll, Amber (CMS/CMCS) (b)(6)
(b)(6); Silanskis, Jeremy
(CMS/CMCS) (b)(6)
(b)(6); adams, lia (CMS/CMCS)
(b)(6)
Subject: RE: 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

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

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

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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

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Message

From: Stegmaier, Jason (CMS/CMCS) (b)(6)
(b)(6)
Sent: 2/16/2023 5:35:31 PM
To: Brooks, Bill (CMS/CMCS) (b)(6)
(b)(6); Failla, Jr. (he/his/him),
George P. (CMS/CMCS) (b)(6)
(b)(6); Glaze, Jackie
(CMS/CMCS) (b)(6)
(b)(6); Hill Petras, Wendy
(CMS/CMCS) (b)(6)
(b)(6); Hughes, Ruth
(CMS/CMCS) (b)(6)
(b)(6); Miller, Courtney
(CMS/CMCS) (b)(6)
(b)(6); Richards, Barbara
(CMS/CMCS) (b)(6)
(b)(6); Roberts, Shantrina
(CMS/CMCS) (b)(6)
(b)(6); Scott, James
(CMS/CMCS) (b)(6)
(b)(6)
Subject: 2.16.23 CMCS Rollout Preview

Everyone,

Below is the rollout preview for this week that lists the rollout tactics and a short description of the item. At the bottom of the document there is a short explanation of the tiers that OC uses to classify the various releases by their level of public interest/Administration priority so you can understand what the tiers mean.

Please let me know if you have any questions or concerns.

Thursday, February 9

- Asthma Quality Improvement Resources
 - OC Tier 3 (Rollout Tactics: Listserv, website posting)
 - Summary: CMS will release resources from the Improving Asthma Control Affinity Group. This update will include a webinar spotlighting several state projects, in addition to new quality improvement resources to be posted on Medicaid.gov.

Friday, February 17

- Health Care Related Taxes and Hold Harmless Arrangements CIB
 - OC Tier 2 (Rollout Tactics: Internal Q&A, reactive media statement)
 - Summary: CMS will release an informational bulletin on Health Care-related Taxes and Hold Harmless Arrangements Involving the Redistribution of Medicaid Payments.
- Medicaid and CHIP Language Access Requirements Slide Deck
 - OC Tier 3 (Rollout Tactics: Listserv)
 - Summary: CMS will issue the Medicaid and Children's Health Insurance Program (CHIP) Language Access Requirements slide deck. This slide deck provides information for states about current accessibility requirements in Medicaid and CHIP for individuals with limited English proficiency and disabilities. The deck also provides operational technical guidance for states to ensure their Medicaid and CHIP programs are accessible with a focus on unwinding.
- Family Caregivers Personal Care Services – Options Beyond the Public Health Emergency Slide Deck

- OC Tier 3 (Rollout Tactics: Listserv)
- Summary: CMS will release a short slide deck that explains options for state Medicaid agencies to continue the use of family members, including legally responsible individuals, as paid caregivers after the public health emergency and disaster flexibilities expire. The deck will be presented at a Center for Medicaid and Children's Health Insurance Program Services all-state call.

Wednesday, February 22

- HCBS Quality Measure Set Tech Specifications
 - OC Tier 3 (Rollout Tactics: Website posting, listserv)
 - Summary: CMS will issue the home and community-based services quality measures set technical specifications.
- NPRM: Medicaid DSH Third Party Payer
 - OC Tier 3 (Rollout Tactics: Internal Q&As, listserv, website posting)
 - Summary: CMS will issue the Disproportionate Share Hospital (DSH) Third Party Payer Proposed Rule (CMS-2445-P). The rule would address changes to the hospital-specific limit on Medicaid DSH payments made by recent legislation, affording states and hospitals more clarity on how the hospital-specific limit will be calculated. The proposed rule would also enhance administrative efficiency by making technical changes and clarifications to the DSH program. This proposed rule is required by the Consolidated Appropriations Act, 2021.

Thursday, February 23

- Tobacco Quality Improvement Resources
 - OC Tier 4 (Rollout Tactics: Website posting)
 - Summary: CMS will post resources on quality improvement technical assistance regarding tobacco cessation through state stories and other guidance on Medicaid.gov. These resources include "Getting Started" materials specific to quality improvement in tobacco cessation (video, driver diagram, and measurement strategy).

OC Tier Guide:

- Tier 1- Announcement that would have national public interest
- Tier 2- Announcement that would have high public interest
- Tier 3-New Information, limited public interest
- Tier 4- Routine Business
- Tier 5- For Center/Office use only

Jason Stegmaier

Medicaid & CHIP Operations Group

Center for Medicaid and CHIP Services

Email: jason.stegmaier@cms.hhs.gov

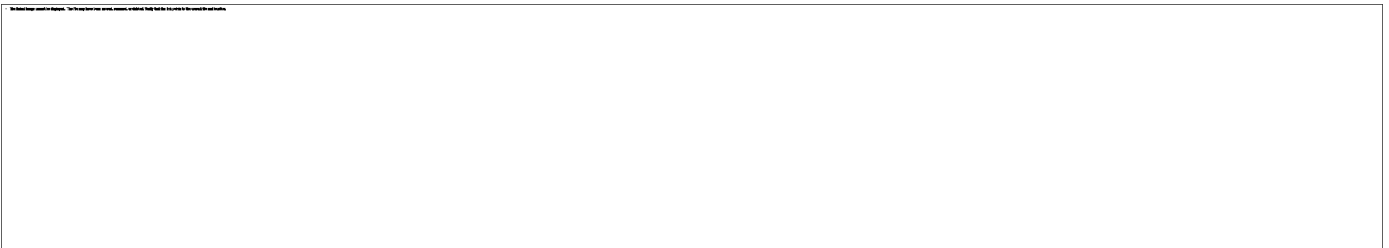
Cell: (b)(6)

Confidential and deliberative, pre-decisional communication.

Message

From: Center for Medicaid and CHIP Services (CMCS) [Medicaid.gov@subscriptions.cms.hhs.gov]
Sent: 2/17/2023 8:26:31 PM
To: Brooks, Bill (CMS/CMCS) (b)(6)
(b)(6)
Subject: Informational Bulletin: Health Care-Related Taxes and Hold Harmless Arrangements

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

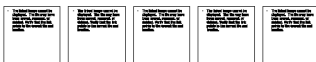


Informational Bulletin: Health Care-Related Taxes and Hold Harmless Arrangements

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.](#)

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Message

From: Tsai, Daniel (CMS/CMCS); (b)(6)
(b)(6)
Sent: 3/9/2023 11:26:10 PM
To: Briskin, Perrie (CMS/CMCS); (b)(6)
(b)(6)
Subject: RE: RE: Re-Up Medicaid Financing Overview

Just sent direct add for the 1115 piece. Let's send to Kyla/CBL. Thanks.

From: Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>
Sent: Thursday, March 9, 2023 6:17 PM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Subject: RE: Re-Up Medicaid Financing Overview

Dan – See attached. I never heard from Mehreen regarding how states in the past have used 1115s to structure incentive pools that are outside of Medicare UPLs. Is that just DSRIP and do you want me to pull bullets on DSRIP?

Medicaid Fee-for-Service Upper Payment Limit for FFS

- For certain Medicaid services, **federal regulations require states to limit their fee-for-service (FFS) payments to a reasonable estimate of the amount Medicare would pay** for equivalent services.
- The **Medicare-based upper payment limit (UPL) is applied to services provided in the following facility settings:** clinic, inpatient hospital, outpatient hospital, nursing facility, institutions for mental disease and intermediate care facility for individuals with intellectual disabilities.
- For the above facilities, **states demonstrate compliance with the UPL through annual demonstrations and as an aggregate comparison of Medicaid payments to the estimated amounts Medicare would pay to facilities** within each of the following ownership categories: state government owned or operated, non-state government owned or operated and privately owned facilities.
- Most states **use the difference between the aggregate estimated Medicare payment and the aggregate amount of Medicaid payments to make targeted supplemental payments to providers.**
- **Supplemental payments are usually self-funded by providers through Medicaid financing methods that allow providers to contribute the non-federal share to Medicaid agencies (i.e. intergovernmental transfers and health-care related taxes) and account for a significant portion of state Medicaid service expenditures.**
 - For example, in 2021 states reported \$18 billion in *supplemental* FFS payment expenditures for inpatient hospital services compared to \$29.5 billion in *base* FFS expenditures and \$4.3 billion in *supplemental* FFS payment expenditures for outpatient hospital services compared to \$10 billion in *base* FFS expenditures.
- In addition to the above Medicare-based UPLs, Medicaid psychiatric residential treatment facilities are limited to a provider's customary charges and practitioner services are limited to the average commercial payer rates paid for equivalent services.

Average Commercial Rate in Medicaid Managed Care State Directed Payments

- State directed payments (SDPs) are contractual arrangements between States and their contracted managed care plans in **which States direct their plans to pay providers using specific payment methodologies or specific payment amounts.**
- The managed care regulations require that CMS approve SDPs prior to implementation.
- In April 2018, as a matter of internal policy and procedure, **CMS set the average commercial rate (ACR) as the benchmark provider reimbursement limit for Medicaid managed care SDPs.** This limit was never published in guidance nor regulation, but instead, was operationalized through our review and approval process for SDPs.
- Since 2018, there are **now 23 SDPs across 19 States** that increase total provider reimbursement up to the ACR. **For the most recently approved rating period, these SDPs total \$12.7 billion.**

(b)(5)

- **In 2018, CMS selected the ACR, instead of the Medicare payment rate (as is used in FFS), because the ACR:**
 - Presented the least disruption for States and providers as they were transitioning existing, and often long-standing, pass-through payments (often, these pass-through payments represented historical FFS supplemental payments) into SDPs.
 - Provided some parity with Medicaid FFS UPL policy for payments for qualified practitioner services at academic medical centers and safety net hospitals, which CMS had approved up to the ACR since the early 2000s.
 - Allowed States to ensure that Medicaid managed care enrollees had access to care that was comparable to access to care for the general public.
- **In contrast, CMCS believed that using the Medicare rate as the benchmark provider payment limit for SDPs could have:**
 - Disrupted providers' revenue streams as pass-through payments were transitioned to SDPs, and could have undermined CMS's policy goals to end pass-through payments and better link Medicaid funding to the delivery of services and quality through SDPs.
 - Reduced funding to Medicaid programs, which would have a negative impact on access, quality, and potentially eliminate funding used for State policy efforts to address health equity and health-related social needs (HRSNs), and disincentivize States from transitioning beneficiaries into managed care programs.
 - Reduced funding for many safety net hospitals, which is often critical to keeping the hospitals in business given their disproportionately high reliance on Medicaid revenue.

(b)(5)

From: Briskin, Perrie (CMS/CMCS)
Sent: Sunday, March 5, 2023 2:49 PM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Subject: RE: Re-Up Medicaid Financing Overview

We have the SDP Deep Dive paper that has a section on provider payment limits (attached).

What may be better for ACBL – the Sec briefing deck on the MC Rule (also attached – text on SDPs pasted here):

Background: State directed payments (SDPs) are a payment mechanism by which states contractually obligate their managed care plans to pay a portion of their capitation payments to specific provider types for specific services. SDPs have become a significant payment vehicle for states, accounting for **more than \$25B annually across 37 states**.

- SDPs allow states to take a more proactive role in directing managed care plans towards key policy and delivery system investments. However, some SDPs are correlated with financing challenges.

(b)(5)

From: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Sent: Sunday, March 5, 2023 2:42 PM
To: Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>
Subject: Re: Re-Up Medicaid Financing Overview

Thanks. Do we have the paper on the Mc rule that gets at acr (average commercial rate)? Thanks

From: Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>
Sent: Sunday, March 5, 2023 11:24:34 AM
To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>
Subject: FW: Re-Up Medicaid Financing Overview

Dan – Is it also worth noting the following for ACBL. I can send to her, if yes.

- On February 17, CMS released a CMS Informational Bulletin (CIB) on “healthcare-related taxes” that include impermissible hold-harmless provider taxes: <https://www.medicaid.gov/federal-policy-guidance/downloads/cib021723.pdf>
- On February 22, CMS also took the following actions:
 - a. FLORIDA: Notified Florida of a CMS Financial Management Review (FMR) of the state’s managed care state directed payments (SDPs) funded by the state’s health-related tax (the same taxes highlighted by the CIB).
 - b. MISSOURI: CMS sent Missouri a question set in advance of a CMS-64 review regarding the state’s pooling/redistribution of funds. Form CMS-64 is a statement of expenditures for which states are entitled to federal reimbursement.

- TEXAS: OIG is currently investigating the provider tax arrangements in Texas.

From: Ellis (she/her), Kyla (CMS/OA) <Kyla.Ellis@cms.hhs.gov>

Sent: Sunday, March 5, 2023 2:12 PM

To: (b)(6) Administrator (CMS/OA) (b)(6)

Cc: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>; Briskin, Perrie (CMS/CMCS) <Perrie.Briskin@cms.hhs.gov>

Subject: Re-Up Medicaid Financing Overview

Hi Chiquita,

On Friday we mentioned re-upping the SDP and provider taxes overview document ahead of some additional conversations about state activities this week. Here's what I could find from late last year.

Dan and Perrie may know of other helpful materials.

All the best,
Kyla

Kyla Ellis (she/her/hers)
Senior Advisor to the CMS Administrator



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Message

From: Sokol, Lisa (CMS/OC) (b)(6)
(b)(6)

Sent: 4/19/2023 3:02:39 PM

To: Pryor, Rachel (HHS/OS/IOS) (b)(6)
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CC: Richardson (she/her), Erin (CMS/OA) (b)(6)
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(b)(6)	Thomas, Jasmine
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(b)(6)	; Sokol, Lisa (CMS/OC)

Subject: CMS Calendar & Rollouts 4.19.23

Hi Team,

CMS' daily comms calendar and rollout updates are below.

NOTE: This calendar/look ahead is close hold in nature and should not be forwarded/shared outside of this group of recipients.

Friendly reminder that these are living documents and the dates are accurate as of the time it is sent - all dates are subject to change.

Do not reply all to this message - If you are aware of any changes/updates to items on the calendar, please let OC know.

Rollouts Today

- Home Health Agency and Hospice Ownership Data Release
- Rhode Island Postpartum Medicaid and Children's Health Insurance Program State Plan Amendment Coverage Extensions

Comms Calendar

2023 APRIL

CALENDAR
YEAR

CALENDAR MONTH

SUNDAY
FIRST DAY OF
WEEK

Black - Holidays and Moments to Mark

Red - CBL External Speeches/ Events
Purple – Rollouts/Announcements

Brown - Media/Interviews

	Monday	Tuesday	Wednesday	Thursday	Friday
16	17	18	19	20	21
	SMDL: Inmate Transitions Guidance to States	Illinois Free Care SPA	Home Health Agency and Hospice Ownership Data Release	African American Mayors Association Annual Conference (CBL)	TENTATIVE: Hospital Price Transparency - Imposition of Civil Monetary Penalty
	Final 2024 Notice of Benefit and Payment Parameters (NBPP) (CMS-9899-F)	ACF/CMS Blog: Medicaid Redetermination	RI Postpartum Medicaid and CHIP State Plan Amendment Coverage Extensions		Consumer OTC Testing, Treatment & Vaccine Coverage for COVID Post PHE
					CMS Roundup
23	24	25	26	27	28

Clarifying Eligibility a Qualified Health Plan, Medicaid, CHIP and Basic Health Plan (CMS 9894-P)

TENTATIVE: New Mexico Free Care SPA

**TENTATIVE: QSO
Memo - Guidance
for the End of the
COVID-19 Public
Health Emergency
(PHE) and
Termination of 1135
Emergency Waivers**

TENTATIVE (Pending Submission): CMS Innovation Center Health Equity Update Blog

**TENTATIVE: Organ
Procurement
Organization
Annual Public
Performance Data**

Blog: The Transplant Ecosystem: The Role Of Data In CMS Oversight Of The Organ Procurement Organizations

**NPRM: Ensuring
Access to Medicaid
Services (CMS
2442-P)**

NPRM: Managed Care Access, Finance, and Quality (CMS-2439-P)

TENTATIVE:
Missouri Notice
Letter

TENTATIVE: Public Release of Acute Hospital Care at Home Data Set

TENTATIVE:
Consolidated
Appropriations Act,
2023 Unwinding
FAQs

2023 MAY

SUNDAY

Black - Holidays and Moments to Mark

Red - CBL External Speeches/ Events
Purple – Rollouts/Announcements

[illegible]

Three-week look-ahead

Wednesday, 4/19

- **Home Health Agency and Hospice Ownership Data Release**
CMS will release Home Health Agency (HHA) and Hospice full ownership data. This is in continuation of previous data releases including Change of Ownership (CHOW) and Hospital and Skilled Nursing Facilities (SNF) full ownership last year to improve data transparency. There will social media, a listserv announcement, internal questions and answers (QAs).
- **Rhode Island Postpartum Medicaid and Children's Health Insurance Program State Plan Amendment Coverage Extensions**
CMS will approve postpartum coverage extension state plan amendments (SPAs) for Rhode Island. The state will receive SPA approval to extend postpartum coverage for individuals enrolled in Medicaid and the Children's Health Insurance Program--an opportunity made possible by the American Rescue Plan. This approval marks 32 states and D.C. that have extended postpartum Medicaid/CHIP coverage to a full year. There will be a social media, targeted media outreach, and a News Roundup story for this item.

Thursday, 4/20

- **Speaking Engagement: African American Mayors Association Annual Conference**
CMS Administrator Chiquita Brooks-LaSure will participate in a fireside chat discussion during the African American Mayors Association (AAMA) Annual Conference. She will be joined by Mayor Justin Bibb (Cleveland, OH) and Mayor Sylvester Turner (Houston, TX) for a conversation about the Administration's strategies for expanding access to quality care and achieving health equity.
- **Speaking Engagement: Health Evolution Summit 2023**
CMS' Dr. Meena Seshamani (Deputy Administrator and Director, Center for Medicare) will participate in the 2023 Health Evolution Summit. Dr. Seshamani will be featured in a fireside chat and discuss various Medicare topics, including the Inflation Reduction Act (IRA), Medicare Advantage (MA), and value-based care. There is no planned media for this item.
- **Advisory Panel on Outreach and Education (APOE)**
CMS' Advisory Panel on Outreach and Education (APOE) will meet in person from 8:30 am to 4:00 pm ET to hear from CMS speakers on various topics. The APOE panel members will provide recommendations for CMS to consider as we work on outreach and education on these programs. The APOE panel is a Federal Advisory Committee Act (FACA) panel, and the website with more information is here: <https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/APOE>.

Friday, 4/21

- **[TENTATIVE] Hospital Price Transparency - Imposition of Civil Monetary Penalty**
CMS will impose a Civil Monetary Penalty on two hospitals that are not in compliance with the requirements of the Hospital Price Transparency final rule. There will be a reactive statement and internal questions-and-answers for this item.
- **Consumer Over-the-Counter (OTC) Testing, Treatment & Vaccine Coverage for COVID Post Public Health Emergency (PHE)**

CMS will post an overview of COVID-19 over-the-counter (OTC) Tests, Vaccines, Treatment, and telehealth coverage for Medicare, Private Issuer, and Medicaid consumers. Planned media remains subject to ongoing discussions.

- **CMS Roundup for April 21, 2023**

CMS will release a Roundup highlighting agency initiatives and activities in a condensed, plain-language, reader-friendly narrative format with embedded links to information on the CMS website for reference. The Roundup is distributed twice a month to media and stakeholders.

- **Speaking Engagement: American Academy of Ophthalmology**

CMS' Dr. Mary G. Greene (Director, Office of Burden Reduction & Health Informatics (OBRHI)) will participate in an American Academy of Ophthalmology event. Dr. Greene will give CMS' perspective on electronic prior authorization and look at the different burdens from different perspectives.

Saturday, 4/22

- Nothing to report

Sunday, 4/23

- Nothing to report

Monday, 4/24

- **[TENTATIVE] Frequently Asked Questions (FAQs): CMS Waivers, Flexibilities, and the End of the COVID-19 Public Health Emergency**

CMS will publish a Frequently Asked Questions (FAQs) document addressing various issues related to the May 11, 2023, end of the COVID-19 Public Health Emergency (PHE) and its impact on various on waivers and flexibilities implemented to address the pandemic. This document will be periodically updated as new FAQs are raised by the public.

- **Clarifying Eligibility, a Qualified Health Plan, Medicaid, CHIP and Basic Health Plan (CMS 9894-P)**

CMS will post the CMS 9894-P: Clarifying Eligibility a Qualified Health Plan, Medicaid, CHIP and Basic Health Plan proposed rule. This rule will amend the definition of "lawful presence," for purposes of Medicaid and Affordable Care Act coverage and includes Deferred Action for Childhood Arrivals (DACA) recipients. The DACA program allows young people to live and work in the only country they know as home. There will be a press release, fact sheet, and internal questions and answers (QAs) for this item.

- **Speaking Engagement: 2023 American Hospital Association (AHA) Annual Membership Meeting**

CMS' Jonathan Blum (Principal Deputy Administrator and Chief Operating Officer) will participate in the American Hospital Association (AHA) Annual Membership Meeting. The meeting brings together members from across the country to provide industry updates, education, and an opportunity for networking.

Tuesday, 4/25

- **[TENTATIVE] New Mexico Free Care State Plan Amendment (SPA)**

CMS will approve a Free Care State Plan Amendment (SPA) for New Mexico. Free Care SPAs are based on CMS guidance that reversed the “free care rule.” This guidance means that states have the option provide physical and behavioral health care services to any student who is enrolled in Medicaid—and to get federal Medicaid reimbursement for those services. There will be a press release, listserv message, social media, internal questions-and-answers, and possible event for this item.

- **Quality Safety Oversight (QSO) Memo: Guidance for the End of the COVID-19 Public Health Emergency (PHE) and Termination of 1135 Emergency Waivers**

CMS will post and release guidance for the end of the COVID-19 public health emergency (PHE) and termination of 1135 emergency waivers. This Quality, Safety & Oversight memorandum will guide key stakeholders on returning to a more normal delivery of quality health care for beneficiaries, provide additional guidance for regulations released during the PHE as Interim Final Rules with Comment, and give details such as dates and CMS expectations of compliance following the end of the PHE. There will be a reactive statement and internal questions and answers (QAs) for this item.

- **National Stakeholder Call on PHE**

CMS will host a national stakeholder call on the public health emergency (PHE) ending.

- **Quarterly National Stakeholder Call with CMS Administrator**

CMS Administrator Chiquita Brooks-LaSure, and her leadership team will provide an update on CMS' recent accomplishments and how the cross-cutting initiatives are advancing CMS' Strategic Plan. CMS serves the public as a trusted partner and steward dedicated to promoting health equity, expanding coverage, and improving health outcomes as we engage the communities we serve throughout the policymaking and implementation process.

- **Speaking Engagement: Dental Trade Alliance Conference**

CMS' Dr. Natalia Chalmers (Chief Dental Officer) will participate in the Dental Trade Alliance Conference. The conference aims to educate Dental Trade Alliance members on federal policy and regulations in the interest of oral healthcare and how to advocate nationally. Dr. Chalmers will speak about the priorities of CMS and oral health initiatives across CMS.

- **Speaking Engagement: Virtual Medicare Advantage Summit**

CMS' Dr. Meena Seshamani (Deputy Administrator and Director, Center for Medicare) will give a pre-recorded fireside chat about Medicare Advantage for the Virtual Medicare Advantage Summit. Dr. Seshamani's session will air between April 25-28th. There is no planned media for this item.

- **Speaking Engagement: Association of Community Health Plans Board Meeting**

CMS' Dr. Meena Seshamani (Deputy Administrator and Director, Center for Medicare) will have participate in a fireside chat with the Association of Community Health Plans (ACHP) CEO Ceci Connolly on Medicare, including Medicare Advantage, the Inflation Reduction Act, the end of the COVID-19 public health emergency, and what these mean for ACHP member plans. There is no planned media for this item.

Wednesday, 4/26

- **Medicaid and Children's Health Insurance Program Continuous Enrollment Partner Education Series (April 2023)**

CMS will host the April 2023 monthly webinar to educate stakeholders and help them prepare for the upcoming Medicaid and Children's Health Insurance Program (CHIP) Continuous enrollment unwinding period. Included for awareness only. There is no planned media for this item.

Thursday, 4/27

- **Notice of Proposed Rule Making (NPRM): Ensuring Access to Medicaid Services (CMS 2442-P)**
CMS will issue a notice of proposed rulemaking (NPRM), entitled "Assuring Access to Medicaid Services" (CMS-2442-P), that includes provisions to enhance Medicaid beneficiaries' access to health care services across fee-for-service, managed care, and home and community-based services delivery systems. The proposed regulatory improvements will affect access to care by increasing transparency and accountability, and by promoting standardized data and monitoring. The NPRM also includes opportunities for states to leverage active beneficiary engagement in their Medicaid programs. Planned media remains subject to ongoing discussions.
- **Notice of Proposed Rulemaking (NPRM): Managed Care Access, Finance, and Quality (CMS-2439-P)**
CMS will release a proposed rule that would add additional parameters under managed care delivery systems related to access to care requirements, states' use of in Lieu of Services or Settings, state directed payments, quality rating systems, and other policy and reporting changes to ensure the efficient operation of state managed care programs. Planned media remains subject to ongoing discussions.
- **Organ Procurement Organization (OPO) Annual Public Performance Data**
CMS will post the Organ Procurement Organization (OPO) specific performance outcomes report to the Quality, Safety, and Oversight Reports (QCOR) webpage. The requirement to make the measures publicly available was established in the 2020 OPO final rule (85 FR 77898). Posting this data is critical to holding OPOs accountable as a crucial step in reforming the organ donation system. The publication will provide transparency and demonstrate how OPOs compare to each other. Although these standards are not yet enforceable, publication of this information will allow OPOs to compare their organization's performance to other OPOs. Planned media remains subject to ongoing discussions.
- **The Transplant Eco-System: The Role of Data in CMS Oversight of the Organ Procurement Organizations**
CMS recently released the Organ Transplantation Affinity Group (OTAG), draft recommendations which are geared toward effectively using data-driven approaches to improve organ donation, procurement, and transplantation system for patients, donors, and their families and caregivers as well as providers. In concert, the Health Resources Services Administration (HRSA) released their Organ Procurement and Transplantation Network Modernization Initiative. In this blog, CMS is outlining its strategy with respect to Organ Procurement Organization data. CMS is sharing information to improve the public trust of increasing transplantation of organs and implementing it in an equitable manner. There will be a blog for this item.
- **Speaking Engagement: Dear Health Care - Do Better**
CMS' Jonathan Blum (Principal Deputy Administrator and Chief Operating Officer) will speak at the Join United States of Care on the 5-year anniversary as they convene an influential collective of trailblazers at the intersection of health care, policy and advocacy, and private sector innovation for a critical conversation to drive change for an equitable health care system.

- **Speaking Engagement: Survey Executive Training Institute (SETI) 2023**
CMS' Dr. Lee Fleisher (Chief Medical Officer and Director, Center for Clinical Standards & Quality (CCSQ)) will participate in the Survey Executive Training Institute (SETI) 2023. Dr. Fleisher will speak at the annual meeting of all state agency directors in Baltimore and cover CCSQ's plans and priorities.
- **Speaking Engagement: Johns Hopkins Population Health Forum on the Care of Medicare Beneficiaries with Diabetes**
CMS' Dr. Lee Fleisher (Chief Medical Officer and Director, Center for Clinical Standards & Quality (CCSQ)) will participate in Johns Hopkins Population Health Forum on the Care of Medicare Beneficiaries with Diabetes. Dr. Fleisher will be the keynote speaker.
- **Speaking Engagement: Virtual Summit: Advancing Equity Through Value-Based Care**
CMS' Dr. Dora Hughes (Chief Medical Officer, Center for Medicare and Medicaid Innovation (CMMI)) will participate in the Humanity Talent Network's (HTN) Virtual Summit: Advancing Equity Through Value-Based Care. The summit is a forum for senior healthcare and life sciences leaders to engage in meaningful discourse around value-based care. It focuses on best practices in forming effective partnerships with other care givers or accountable care organizations (ACOs) to share data and enhance patient outcomes, leveraging patient data in order to align incentives with quality of care, and discusses effective rollouts of value-based care delivery plans and how to market your strategic differentiation vs fee-for-service plans. Dr. Hughes will be a keynote speaker.
- **Speaking Engagement: National Academy of Medicine (NAM) Action Collaborative on Decarbonizing the U.S. Health Sector Public Meeting**
CMS' Dr. Liz Fowler (Deputy Administrator and Director, Center for Medicare and Medicaid Innovation (CMMI)) will participate in the National Academy of Medicine's (NAM) Action Collaborative on Decarbonizing the U.S. Health Sector Public Meeting. NAM was founded in 1970 as the Institute of Medicine (IOM), the National Academy of Medicine (NAM) is one of three academies that make up the National Academies of Sciences, Engineering, and Medicine (the National Academies) in the United States. Operating under the 1863 Congressional charter of the National Academy of Sciences, the National Academies are private, nonprofit institutions that work outside of government to provide objective advice on science, technology, and health.

Friday, 4/28

- **[TENTATIVE] Missouri Notice Letter**
CMS will release a Medicaid deferral letter to Missouri regarding longstanding concerns about federal Medicaid financing requirements, specifically FRA hospital taxes. This may represent a hold harmless arrangement, which is prohibited by statute and regulations. There will be a reactive statement for this item.
- **[TENTATIVE] Public Release of Acute Hospital Care at Home Data Set**
CMS will make available, upon request, data from the Acute Hospital Care at Home (AHCAH) data set. The data includes 14 months of information in two finders' files for the period from November 2020-December 2021. One file contains patient-specific data, as well as claims aggregation and eligibility data of Medicare Fee-for-Service and non-managed Medicaid beneficiaries who have been provided acute care by hospitals across the country with an approved AHCAH waiver. The second file includes hospital-specific information related to the number admissions to the home setting, the number of patient escalations of care from the home to the hospital, and the number of unexpected patient

mortalities. File release is pending publication in JAMA of a companion article under development. Planned media remains subject to ongoing discussions.

- **Consolidated Appropriations Act, 2023 Unwinding Frequently Asked Questions (FAQs)**
CMS will release answers to frequently asked questions (FAQs) regarding the Medicaid continuous enrollment condition, conditions for receiving the Families First Coronavirus Response Act temporary federal medical assistance percentage increase, reporting requirements, and enforcement provisions in the Consolidated Appropriations Act, 2023 and related guidance. There will be a News Roundup story and listserv message for this item.
- **Speaking Engagement: Medical Device Manufacturers Association (MDMA) 2023 Annual Meeting**
CMS' Dr. Lee Fleisher (Chief Medical Officer and Director, Center for Clinical Standards & Quality (CCSQ)) will participate in the Medical Device Manufacturers Association (MDMA) 2023 Annual Meeting. Dr. Fleisher will give a keynote on CMS updates and priorities.

Saturday, 4/29

- Nothing to report

Sunday, 4/30

- Nothing to report

Monday, 5/1

- **Enhancing Oncology Model Participation Announcement**
CMS will issue a broad public announcement on the Oncology Care Model and its participants. There will be a press release, fact sheet, social media, listserv message, and internal questions-and-answers for this item. Additional planned media remains subject to ongoing discussions.
- **Informational Bulletin: End of COVID-19 Public Health Emergency and Related Provisions in Medicaid, the Children's Health Insurance Program (CHIP), and the Basic Health Program (BHP)**
Tomorrow, CMS will release a Center for Medicaid & Children's Health Insurance Program (CHIP) Services (CMCS) Informational Bulletin (CIB) that confirms the end of certain Medicaid, CHIP, and Basic Health Program authorities if the COVID-19 public health emergency ends on May 11, 2023, as expected. This CIB does not provide additional information about the end of the continuous enrollment condition. There will be a News Roundup story for this item.
- **Medicaid Redeterminations Second Virtual Regional Pen-and-Pad**
CMS will host a virtual pen-and-pad with reporters from select states (Connecticut, Colorado, Kansas, Nebraska, Pennsylvania, Kentucky, Indiana, Utah, Ohio, Oklahoma, and Tennessee) to discuss Medicaid eligibility redeterminations as the continuous enrollment condition ends. This supports CMS' ongoing efforts to engage in national and regional media education about Medicaid and Children's Health Insurance Program redeterminations.
- **2023 CMS Quality Conference**

CMS will host the 2023 CMS Quality Conference. This conference convenes leaders across the health care spectrum to explore how patients, advocates, providers, researchers, and champions in health care quality improvement can develop and spread solutions to address America's most pervasive health system challenges. There will be a press release and social media and for this item.

- **Speaking Engagement: 2023 CMS Quality Conference**

CMS Administrator Chiquita Brooks-LaSure will provide pre-recorded remarks for the 2023 CMS Quality Conference. This year's conference theme is "Building Resilient Communities - Having an Equitable Foundation for Equitable Health Care." There is no planned media for this item.

- **Jonathan Blum Visit to CMS Region 10 (Alaska)**

CMS' Jonathan Blum will visit Alaska. The visit will include time with the National Tribal Health Conference and stakeholder meetings. There will be social media for this item.

- **Speaking Engagement: 2023 National Medicaid, Medicare, and Children's Health Insurance Program (CHIP) Oral Health Symposium - Accelerating Oral Health for Medicaid, Medicare, and CHIP Beneficiaries**

CMS' Dr. Natalia Chalmers (Chief Dental Officer) will give the keynote address at the 2023 National Medicaid, Medicare, and Children's Health Insurance Program (CHIP) Oral Health Symposium on accelerating oral health equity for Medicaid, Medicare, and CHIP beneficiaries. There is no planned media for this item.

Tuesday, 5/2

- Nothing to report

Wednesday, 5/3

- Nothing to report

Thursday, 5/4

- **Rural Emergency Hospitals (REH) Milestone Announcement**

On January 3, 2023, a new provider type, Rural Emergency Hospitals (REH), was implemented to support access to care in rural and underserved communities. Critical Access Hospitals (CAHs) and small rural hospitals can convert to REH, which may be a more sustainable option for rural hospitals facing closure. Behavioral health services may be provided at REH facilities. Planned media remains subject to ongoing discussions.

- **Speaking Engagement: American College of Physicians (ACP) Performance Measurement Committee (PMC) Meeting**

CMS' Dr. Lee Fleisher (Chief Medical Officer and Director, Center for Clinical Standards & Quality (CCSQ)) and Dr. Michelle Schreiber (Director, Quality Measurement and Value-Based Incentives Group, CCSQ) will participate in the American College of Physicians (ACP) Performance Measurement Committee (PMC) Meeting. Dr. Fleisher and Dr. Schreiber will discuss the CMS Universal Foundation Initiative.

- **CMS/American Hospital Association (AHA) Stakeholder Call on Public Health Emergency (PHE)**

CMS and the American Hospital Association will host a stakeholder call on public health emergency (PHE).

Friday, 5/5

- **CMS Roundup for May 5, 2023**

CMS will release a Roundup highlighting agency initiatives and activities in a condensed, plain-language, reader-friendly narrative format with embedded links to information on the CMS website for reference. The Roundup is distributed twice a month to media and stakeholders.

Saturday, 5/6

- Nothing to report

Sunday, 5/7

- Nothing to report

Monday, 5/8

- Nothing to report

Tuesday, 5/9

- Nothing to report

Wednesday, 5/10

- Nothing to report

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