



Center for Medicaid and CHIP Services

Mr. Mike Fogarty, Chief Financial Officer
State of Oklahoma
Oklahoma Health Care Authority
2401 23rd Street
Oklahoma City, OK 73407

JAN 17 2012

Dear Mr. Fogarty:

This is in response to your request for waivers of the broad-based requirements related to tax program on inpatient and outpatient hospital net patient revenues. Upon review and consideration of the information formally provided to CMS on July 26, 2011, I am pleased to inform you that your request for waivers of the broad-based provisions of section 1903(w)(3)(B) of the Social Security Act (the Act) is approved.

The tax structure for which Oklahoma requested waivers would be imposed as follows:

- (i) Hospitals owned or operated by the state or state agency, the federal government, federally recognized Indian tribe, or the Indian Health Service are excluded from the tax;
- (ii) Hospitals that provide more than fifty percent of their inpatient days under a contract with a state agency other than the Oklahoma Health Care Authority are excluded from the tax;
- (iii) Hospitals which a majority of their inpatient days are for the treatment of neurological injury, cancer, cardiovascular disease, obstetrical or childbirth services, or surgical care, unless located in city of less than five hundred thousand and for which the majority of inpatient days are for back, neck or spine surgery are excluded from the tax;
- (iv) Hospitals that are certified by CMS as a long term acute care hospital or children's hospital are excluded from the tax;
- (v) Hospitals that are certified by CMS as a critical access hospital are excluded from the tax;
- (vi) All other hospitals are assessed at a rate of 2.5% of inpatient and outpatient net patient revenues.

Section 1903(w)(3)(E) of the Act specifies that the Secretary shall approve broad-based (and uniformity) waiver applications if the net impact of the tax is generally redistributive and that the amount of the tax is not directly correlated to Medicaid payments.

The Federal regulation at 42 CFR 433.68(e)(1) describes the statistical test necessary for a state to demonstrate that the proposed tax structure is generally redistributive. Oklahoma's statistical demonstration is addressed below. Moreover, the Federal regulation at 42 CFR 433.68(f) describes the circumstances in which a direct correlation would exist. Upon review of Oklahoma's legislation regarding this tax it appears that no direct correlation exists between the tax and associated increase in Medicaid reimbursement.

Analysis

To determine the generally redistributive nature of the proposed inpatient and outpatient hospital net patient revenue tax, Oklahoma calculated the proportion of the tax revenue applicable to Medicaid if the tax were broad-based (expressed as P1) and the proportion of the tax revenue applicable to Medicaid under the proposed tax structure (expressed as P2).

Using the inpatient and outpatient hospital net patient revenue data you provided, CMS also performed the proportionality analysis calculations required in the regulations for the proposed tax. CMS finds that the result of the generally redistributive calculation for the inpatient hospital net patient revenue portion of the tax is **1.09957** and for the outpatient hospital net patient revenue portion of the tax is **1.01084**.

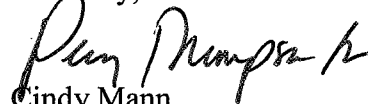
Therefore, we are able to approve your request for waivers of the broad-based provisions of section 1903(w)(3)(B) of the Act for the proposed inpatient and outpatient hospital net patient revenue tax.

The Federal regulations at 42 CFR 433.72(c)(2) specify that a waiver will be effective for tax programs commencing on or after August 13, 1993, on the first day of the calendar quarter in which the waiver is received by CMS. CMS received the State of Oklahoma's initial request for waivers of the broad-based requirements on July 26, 2011. Therefore, the effective date of Oklahoma's request for waivers of the broad-based requirements is July 1, 2011.

CMS reserves the right to perform a financial management review at any time to ensure that the State operation of the tax on inpatient and outpatient net patient revenue of certain hospitals continues to meet the requirements of section 1903(w) of the Act.

I hope this information addresses all of your concerns. If you have further questions or need additional information please contact Stuart Goldstein at (410) 786-0694.

Sincerely,


Cindy Mann
Director