

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S3-13-15
Baltimore, Maryland 21244-1850



Center for Medicaid and State Operations, CMSO

Ms. Jennifer Vermeer, Medicaid Director
Iowa Medicaid Enterprise
Iowa Department of Human Services
100 Army Post Rd
Des Moines, Iowa 50315

MAR 24 2010

Dear Ms. Vermeer:

This is in response to your request for waiver of the broad-based and uniformity requirements related to a tax on certain nursing facility days. Iowa is requesting a waiver of the broad-based and uniformity requirements for its nursing facility assessment program. Upon review and consideration of the information formally provided to the Center for Medicare & Medicaid Services (CMS) on July 15, 2009, I am pleased to inform you that your request for waiver of the broad-based and uniformity provisions of sections 1903(w)(3)(B) and (C) of the Social Security Act (the Act) is approved.

The tax structure for which Iowa requested waiver would be imposed as follows:

- (i) Distinct part skilled units are excluded from the tax;
- (ii) Government controlled facilities are excluded from the tax;
- (iii) Facilities with licensed beds less than or equal to 50 beds will be assessed \$1.00 per patient day; and
- (iv) Continuing care retirement communities facilities will be assessed \$1.00 per patient day; and
- (v) Facilities with licensed beds greater than 26,500 days will be assessed \$1.00 per patient day; and
- (vi) Facilities with licensed beds greater than 50 beds and less than 26,500 bed days will be assessed \$5.26 per patient day.

Section 1903(w)(3)(E) of the Act specifies that the Secretary shall approve uniformity (and broad-based) 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)(2) describes the statistical test necessary for a State to demonstrate that the proposed structure is generally redistributive. Iowa'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 the Iowa statute implementing the proposed nursing facility tax and the review of Iowa's proposed methodology for increasing Medicaid reimbursement to nursing facilities, it appears that no direct correlation exists between the associated increases in Medicaid reimbursement.

To determine the generally redistributive nature of the proposed nursing facility patient day tax, Iowa calculated the slope (expressed as B1) of a linear regression for a broad-based and uniform tax in which the dependent variable was each nursing facility's percentage share of the total tax paid, if the tax was uniformly imposed on all nursing facility patient days in the State and the independent variable was each nursing facility's number of Medicaid patient days. Iowa then calculated the slope (expressed as B2) of a linear regression for the State's actual proposed tax program in which the dependent variable was each nursing facility's percentage share of the total tax paid and the independent variable was the number of Medicaid patient days for each nursing facility.

Using the patient day and tax rate data you provided, CMS also performed the regression analysis calculations required in the regulations for the proposed tax. CMS finds that the result of the generally redistributive calculation for the Iowa nursing facility patient day tax is 1.04.

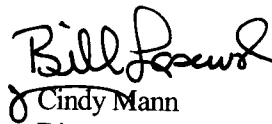
Therefore, we are able to approve your waiver of the broad-based and uniformity provisions of sections 1903(w)(3)(B) and (C) of the Act for the proposed nursing facility patient day tax. Please be advised that any future changes to the taxing structure, including a non-uniform change to the approved tax rates, will require the State of Iowa to submit a new broad-based and/or uniformity waiver request.

The Federal regulations at 42 CFR 433.72(c)(1) 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 Iowa's initial request for waiver of the broad-based and uniformity requirements on July 15, 2009, with a requested effective date of April 1, 2010. Therefore, the effective date of Iowa's request for waiver of the broad-based and uniformity requirements is April 1, 2010.

CMS reserves the right to perform a financial management review at any time to ensure that the State operation of the tax on nursing facilities 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 Charles Hines at (410) 786-0252.

Sincerely,



Cindy Mann
Director

Center for Medicaid and State Operations

cc: James Scott
Associate Regional Administrator
Kansas City Regional Office