



Mr. Tom Betlach, Director
Arizona Health Care Cost
Containment System (AHCCCS)
801 East Jefferson St.
Phoenix, AZ 85034

APR 16 2013

Dear Mr. Betlach:

This is in response to your request for waiver of the broad-based requirements related to tax program on inpatient hospital net patient revenues. Upon review and consideration of the information formally provided to CMS on January 29, 2013, I am pleased to inform you that your request for waiver of the broad-based provisions of section 1903(w)(3)(B) of the Social Security Act is approved.

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

- (i) Government hospitals located in the City of Phoenix are excluded from the inpatient tax;
- (ii) Specialty hospitals in the City of Phoenix, which includes psychiatric hospitals, inpatient rehabilitation facilities, long term care hospitals, and orthopedic and surgical specialty hospitals, are excluded from the inpatient tax;
- (iii) Children's hospitals located in the City of Phoenix with fewer than 30 beds are excluded from the inpatient tax;
- (iv) Hospitals located in the City of Phoenix with at least 50 percent of inpatient days attributable to Medicare beneficiaries and at least 15 percent of inpatients are from outside of Arizona are excluded from the inpatient tax;
- (v) All other hospitals located in the City of Phoenix are assessed at a rate of 6 percent of net inpatient hospital 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. Arizona'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 Arizona's statute implementing the proposed hospital tax and the review of Arizona's proposed methodology for increasing Medicaid reimbursement to hospitals, it appears that no direct correlation exists between the increases in Medicaid reimbursement.

Analysis

To determine the generally redistributive nature of the proposed inpatient hospital net patient revenue tax, Arizona 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 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 **1.0791**.

Therefore, we are able to approve your request for waiver of the broad-based provisions of section 1903(w)(3)(B) of the Act for the proposed inpatient 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 Arizona's initial request for waiver of the broad-based requirements on January 29, 2013 with a requested effective date of January 10, 2013. Therefore, the effective date of Arizona's request for waiver of the broad-based requirements is January 10, 2013.

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

I hope this information is helpful and addresses all of your concerns. If you have further questions or need additional information please contact Richard Cuno at Richard.Cuno@cms.hhs.gov, or at (410) 786-1111.

Sincerely,



Cindy Mann
Director