



Department of Health

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Commissioner

JOHANNE E. MORNE, M.S.
Executive Deputy Commissioner

September 4, 2024

Rory Howe
Director, Financial Management Group
Centers for Medicaid and CHIP Services
U.S. Department of Health and Human Services
7500 Security Boulevard, Mail Stop S3-14-28
Baltimore, MD 21244

Subject: Request for Review and Approval of Waiver of Uniform Tax Requirement

Dear Mr. Howe:


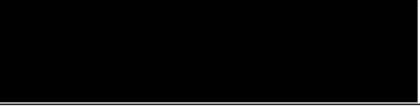
The State of New York is submitting a request and approval of a waiver of the broad-base and uniformity provisions of section 1903(w)(3)(B) and (C) of the Social Security Act. The elements of the proposed tax are outlined in this letter.

We believe the tax proposal meets criteria for the waiver under 42 C.F.R. §433.72(b), outlined below:

- The net impact of the tax is generally redistributive, as demonstrated by the results of the B1/B2 test.
- The amount of the tax is not directly correlated to Medicaid payments.
- The tax is applied to both Medicaid and non-Medicaid lines of business including health insurers that do and do not participate as Medicaid managed care insurers as defined in 42 C.F.R. § 433.56(8)
- The MCO tax does not fall within the hold harmless provisions specified in 42 C.F.R. §433.68(f):
 - The state does not provide for any direct or indirect non-Medicaid payment to health insurers paying the tax that is positively correlated with either the tax amount or the difference between the Medicaid payment and the tax amount.
 - Any portion of the Medicaid payment to the MCO taxpayer that varies based on tax amount is attributable to federal requirements for setting actuarially sound capitation rates for Medicaid managed care insurers in accordance with 42 C.F.R. §438.4.
 - There is no direct or indirect guarantee by the state to hold MCO taxpayers harmless for all or any portion of the tax amount, and the aggregate revenue from the tax will not exceed six percent of MCO revenues projected for the taxing period.

The following outlines the structure of the proposed tax and discussion of the accompanying tax waiver Microsoft Excel worksheet.

Structure of the Proposed Tax

Name of Tax:	MCO Tax
Type of Class:	Managed Care Organizations
Effective Date:	January 1, 2025
Metric:	Member Months
Excluded Providers:	<ul style="list-style-type: none"> ▪ Program of All-Inclusive Care for the Elderly (PACE) programs. ▪ Medicare (Supplement, Prescription Drug and Advantage) plans. ▪ Federal Employees Health Benefits plan.
Statistical Test Calculation:	$B1/B2 = 1.0409$
Signature Line / Delegation:	<p>Amir Bassiri Medicaid Director, Deputy Commissioner New York State Department of Health State of New York, Department of Health Empire State Plaza, Corning Tower, Room 1466 Albany, NY 12237</p> 
Contact Person:	<p>Michael Ogborn, MPA Deputy Medicaid Director New York State Department of Health Office of Health Insurance Programs One Commerce Plaza Rm. 1430 Albany, NY 12237</p> 

Proposed Tax Rates**Medicaid Managed Care Organizations**

Member Months	PMPM
<250,000	\$126.00
250,000 – 500,000	\$88.00
500,000+	\$25.00

Non-Medicaid Managed Care Organizations

Member Months	PMPM
Essential Plan MCOs	
<250,000	\$13.00
>250,000	\$7.00
Non-Essential Plan MCOs	
<250,000	\$2.00
>250,000	\$1.50

The State of New York developed the proposed tax PMPMs based on the value of tax receipts generated by the tax. As structured these PMPM tax rates meet the statistical test **and** remain below the six percent (6% threshold).

Health Care Related Tax Microsoft Excel Spreadsheet

Included with this submission is the tax model that demonstrates the above tax structure and the B1/B2 test results. The spreadsheet includes all formulas to support CMS' review of this tax proposal. The following describes the spreadsheet and navigation.

- **Table of Contents** – Provides links to navigate workbooks and summary of contents of workbook.
- **Exhibit 1: Summary** – This exhibit summarizes the following for Medicaid and Non-Medicaid plans:
 - Tax limit
 - Proposed tax PMPMs
 - Member Months
 - Modeled tax receipts
 - Results of B1/B2 Statistical Test
- **Exhibit 2: Six Percent Test** – This exhibit provides a clear calculation of the six percent (6%) test as described in 42 CFR § 433.68 (f)(3)(I)(a) including:
 - Net patient revenue for all providers in the permissible class, including excluded providers.
 - Total amount of the proposed tax
 - The 6.0% test
 - All supporting health insurer data by type, (Medicaid vs. Non-Medicaid), and by line of business.
- **Exhibit 3: Tax Model** – This exhibit includes the data, tax rates, tax bands and calculation of the statistical test for all health insurers included in the proposed tax by

line of business. Within this tab, comments are displayed above columns to enhance navigation of the tax model.

We would be pleased to provide any additional information that you require for processing this request. We look forward to a favorable response.

Sincerely,

A handwritten signature in blue ink, appearing to read "Amir Bassiri". The signature is stylized and fluid, with a long horizontal stroke at the end.

Amir Bassiri
Medicaid Director
Office of Health Insurance Programs