



Quality Assurance Fee (Provider Tax) Exemption

Public Policy Position Statement February 2010

ISSUE: Aging Services of California represents not-for-profit providers of a continuum of services and health care to the aged population of California. Twenty five percent of our members provide skilled nursing services either in a stand-alone skilled nursing facility or as part of a continuing care retirement or a multi level community, of which a skilled nursing facility is a component.

BACKGROUND: With the implementation of a provider tax in 2005, the state made a policy decision to exempt Continuing Care Retirement (CCRCs) and multi level retirement communities (MLRCs) from payment of the Quality Assurance Fee used to match the Federal Medicaid skilled nursing facility funds by applying for a waiver of uniformity. The reasons for this policy decision were varied. Foremost among these reasons was the fact that the quality assurance fee would unfairly penalize California citizens who had planned in advance on how to pay for their own health care needs in retirement. Providers of services in these communities would be forced to pass the costs of the quality assurance fee on to these residents.

Aging Services of California had been initially opposed to the implementation of the provider tax as poor public policy and a short term fix for budget shortfalls. Its opposition was removed when the exemption was legislated.

Rescinding the Provider Tax Exemption is Based on Faulty Cost/Benefit Analysis

The state seeks to obtain new revenue by rescinding the provider tax exemption and having Continuing Care Retirement and multi level communities pay the quality assurance fee (provider tax). To focus only on revenue is a short-sighted analysis of the impact on the Medi-Cal budget. Private pay residents already pay fees that subsidize Medi-Cal residents at the facility. Those fees will increase in order to garner the revenue needed to support the quality assurance fee and thus private pay residents will lose even more of their resources supporting Medi-Cal residents. Shrinking resources and the increasing age of the long term care population will add significantly to the Medi-Cal roles. Increases in transfers of assets, spend downs and conversions to Medi-Cal precipitated among these residents by this "retirement tax" will occur. This expansion of the eligibility rolls will further exacerbate state budget deficits.

Quality of Care for California Residents Will Decrease

It is clear that the incentives of a new reimbursement system and the exemption from the provider tax have allowed not for profit providers to continue investing in the health and well being of the residents they serve. Aging Services of California members have higher staffing levels in their skilled nursing facilities; been leaders in implementing culture change concepts such as green

house and other new skilled nursing environments, innovative dining and wellness programs and been leaders in the development of aging in place support structures. A loss of the provider tax exemption and the subsequent decreases in revenue will force reductions in staff, loss of innovative programs and even the closure of some skilled nursing facilities. Of course, this is occurring in an environment where important components of the reimbursement formula, which is supported by the QAF, have been reduced or postponed or eliminated. The State's commitment to improving the quality of nursing home care in California is being lost.

Rescinding the Waiver of Uniformity May Jeopardize the Entire Provider Tax Structure.

Initially, the state applied for and was granted a waiver of uniformity for the exemption. Withdrawing the waiver may jeopardize the entire provider tax structure. New amendments to the Federal Provider Tax regulations were promulgated in 2006. California would now have to meet those requirements for any changes that it is proposing for the skilled nursing facility quality assurance (provider tax) fee.

The majority of Residents Subsidizing the Quality Assurance Fee Will Not Benefit From it.

Continuing Care Retirement Communities account for just 2 percent of Medi-Cal patient days and 5 percent of MLRC Medi-Cal patient days per year in California. And while some exempt organizations, standing alone have a relatively high Medi-Cal patient census, in no case does the Medi-Cal reimbursement cover the cost of the care provided. Hence, exempt facilities still lose revenue on each Medi-Cal admission. Moreover, it makes little economic sense to force a facility to pay a tax that is 20-30-40 percent of the revenue to be gained by implementing the tax on that provider, and it makes no economic sense to tax providers who have no Medi-Cal residents and will receive absolutely no benefit from paying the tax. The exercise becomes the taxing of retirement savings of Californian's who made the sacrifices during their working years to finance their own retirements, just to see it taxed away to further subsidize people who couldn't or wouldn't save for their retirement. Such a result is blatantly unfair.

In addition the state is under no obligation to return the entire revenue generated by the provider tax to skilled nursing home providers. The majority of residents living in our communities would enjoy little benefit from payment of the "retirement tax" and their quality of life and care would suffer negative consequences.

Recommendation: Forcing CCRCs and MLRCs to pay the provider tax (aka: Quality Assurance Fee (QAF)) will simply be a tax on retirement savings. It is unfair to the residents who have saved for their own retirement to be required to pay more to subsidize Medi-Cal residents' retirement. Both the CCRC and the MLRC exemption from the QAF must be maintained.