

# MAC*facts*

Key Findings on Medicaid and CHIP

August 2012

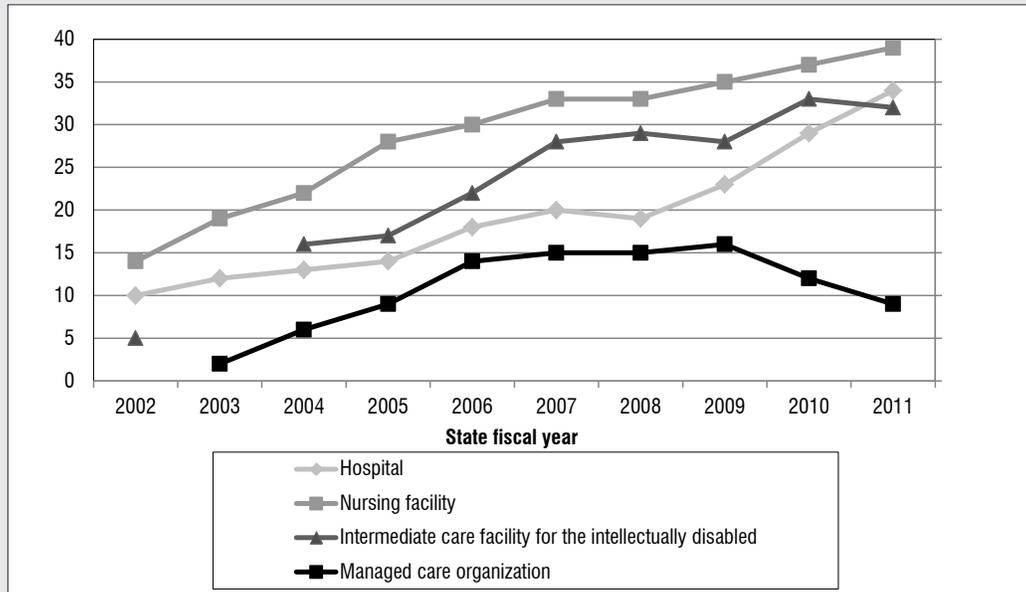
## Health Care Related Taxes in Medicaid

Financing the Medicaid program is a shared responsibility of the federal and state governments. Generally, the federal share of Medicaid is about 57 percent and the non-federal share, commonly referred to as the “state-share,” is about 43 percent.<sup>1</sup> Each state makes its own decisions, within federal requirements, regarding how to finance its share of the Medicaid program. States generate their share through state general revenue, contributions from local governments including providers operated by local governments, and other revenue sources such as health care related taxes. As long as a state operates its program within federal requirements, it is entitled to receive federal matching funds toward allowable state expenditures.

Health care related taxes (sometimes referred to as provider taxes, fees, or assessments) in Medicaid are defined by federal statute as taxes of which at least 85 percent of the tax burden falls on health care providers (§1903(w)(3)(A) of the Act). These taxes, which are authorized by federal statute and have been implemented by nearly every state, are commonly used by states to:

- establish supplemental Medicaid payments for the classes of providers that pay the tax;
- increase or avert reductions in Medicaid rates; and/or
- finance other areas of the Medicaid program.

Federal regulations specify 18 separate provider classes as eligible for health care related taxes (42 CFR 433.56). According to a recent survey, 47 states have at least one provider tax in place as of SFY 2011 and they are most commonly assessed on nursing facilities (39 states), hospitals (34 states), intermediate care facilities for the intellectually disabled (ICFs-ID) (32 states), and managed care organizations (9 states) (Figure 1). Use of health care related taxes for hospitals, nursing facilities, and ICFs-ID has increased over the past decade. In 2008, 18 states had a hospital tax compared to 34 states in 2011 (Figure 2). The number of states using health care related taxes for managed care organizations, however, has decreased in recent years.<sup>2</sup>

**FIGURE 1. States' Use of Health Care Related Provider Taxes, SFY 2002–2011**

**Note:** 2003 data point for intermediate care facilities for the intellectually disabled not discernible from survey report.

Source: Kaiser Commission on Medicaid and the Uninsured: State Budget Surveys (2003-2011)

**Federal requirements.** Health care related taxes are typically approved by state legislatures and are mandatory for providers. The tax revenue collected is then commonly used as the non-federal share of Medicaid payments. However, federal statute and regulations place limits on states' ability to use such tax revenue as the non-federal share of Medicaid payments.

Statutory provisions regarding health care related taxes require that:

- Health care related taxes must be broad-based and uniform. That is, they must be levied against all non-governmental providers in a particular class, not only those that accept Medicaid payments, and the tax rate must be uniform across all providers in the class.
- Providers cannot be "held harmless" through a direct or indirect guarantee that they will be repaid for the amount of taxes that they contribute. However, the indirect guarantee test does not apply if the tax rate falls within a "safe harbor" established under regulation. The safe harbor is currently 6 percent of net patient revenue.

Federal statute and regulations provide states the opportunity to request waivers of the broad-based and uniform requirements as long as states can demonstrate that the net impact of the tax program is generally redistributive and that the tax amount is not directly correlated to Medicaid payment amounts.

An illustration of a permissible health care related tax on hospitals is provided in Figure 3.



### FIGURE 3. Illustration of a Permissible Health Care Related Tax on Hospitals

Health care related taxes are specifically authorized by federal statute as a source of non-federal Medicaid financing and have been implemented by nearly every state. The following example is illustrative only, based on an FMAP of 60 percent. Actual health care related tax amounts and the distribution of tax revenue vary across states and by each individual tax.

**Tax Assessment (Step 1)** – Each hospital is assessed a tax that results in \$40 of tax revenue to the state.

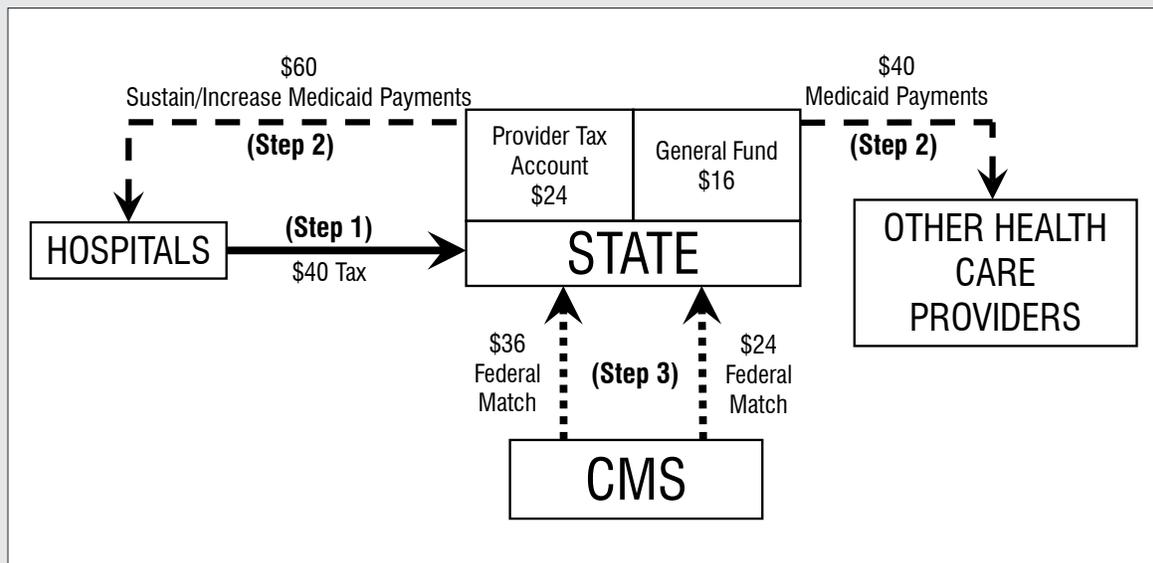
- ▶ \$24 of this tax revenue is deposited into a provider tax account.
- ▶ \$16 of this tax revenue is deposited into the state general fund.

**Provider Payment (Step 2)** – The state uses the tax revenue that is collected as the non-federal share of Medicaid payments to providers.

- ▶ \$60 is used to sustain or increase Medicaid payment rates to hospitals, of which \$24 is from the health care related tax.
- ▶ \$40 in Medicaid payments is made to other health care providers, of which \$16 is from the health care related tax.

**Federal Match (Step 3)** – The state may then claim federal matching funds for the Medicaid payments that it made and receive 60 percent of the amount paid to providers from CMS.

- ▶ CMS makes a \$36 payment to the state, which is 60 percent of the \$60 payment to hospitals.
- ▶ CMS makes a \$24 payment to the state, which is 60 percent of the \$40 payment to other health care providers.



Source: MACPAC analysis 2012

For more information on this topic, see Chapter 3 of MACPAC's March 2012 Report to the Congress on Medicaid and CHIP.

- 1 The federal share of Medicaid spending was higher from fiscal year 2009 – 2011 due to a temporary increase in states' federal medical assistance percentages to provide broader federal assistance over this period.
- 2 Prior to 2005, states could limit a tax to managed care organizations that participated in Medicaid, allowing all of the companies that paid the tax to be repaid. The Deficit Reduction Act of 2005 required that the taxes apply to all managed care organizations (not only those participating in Medicaid). As a result, a number of states that had Medicaid managed care taxes have since ended these programs.