



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
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Memorandum

To: The Honorable Steven M. Costantino
Chairman, House Finance Committee

The Honorable Daniel DaPonte
Chairman, Senate Finance Committee

From: Rosemary Booth Gallogly
Executive Director/State Budget Officer *R.Booth Gallogly*

Date: May 29, 2009

Subject: New Article for the FY 2010 Appropriation Act (09-H-5983)

The Governor requests that a new article entitled "Relating to Health Care Provider Assessment Act" be considered for the FY 2010 Appropriations Act. This article was originally submitted with the FY 2009 Supplemental Appropriations Act, but was not included in the final legislation that passed the General Assembly on April 10. If this article is not passed to repeal the Health Care Provider Assessment Act, the State will be out of compliance with federal regulations as a result of the new Global Medicaid Waiver. As previously noted, the Health Care Provider Assessment was allowed only under the State's previous Medicaid Waiver, and was unique to Rhode Island.

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If you have any questions regarding the new article, feel free to call me or Gregory Stack at 222-6300.

RBG:sm09-170

cc: Michael O'Keefe
Peter Marino
Tim Costa
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Gregory Stack
Brian Stern
Representative Robert A. Watson

NEW ARTICLE

RELATING TO HEALTH CARE PROVIDER ASSESSMENT ACT

SECTION 1. Chapter 44-50 of the General Laws entitled "Health Care Provider Assessment Act" is hereby repealed in its entirety.

CHAPTER 44-50

HEALTH CARE PROVIDER ASSESSMENT ACT

~~§ 44-50-1 Short title.~~ This chapter shall be known as "The Health Care Provider Assessment Act".

~~§ 44-50-2 Definitions.~~ Except where the context otherwise requires, the following words and phrases as used in this chapter shall have the following meaning:

~~(1) "Administrator" means the tax administrator.~~

~~(2) "Assessment" means the assessment imposed upon gross patient revenue pursuant to this chapter.~~

~~(3) "Gross patient revenue" means the gross amount received on a cash basis by the provider from the provider's provision of twenty four (24) hour residential services for individuals with developmental disabilities.~~

~~(4) "Person" means any individual, corporation, company, association, partnership, joint stock association, and the legal successor thereof.~~

~~(5) "Provider" means a licensed facility or operator, including a government facility or operator, subject to an assessment under this chapter.~~

~~(6) "Residential services" means intermediate care facility services for the mentally retarded and similar twenty four (24) hour residential services funded under a waiver of § 1915(e) of the federal Medicaid statute, 42 U.S.C. § 1396n(e), and furnished by providers licensed in accordance with chapter 24 of title 40.1 to provide services to individuals with developmental disabilities.~~

~~Semi-independent apartment programs and supported living arrangements are not considered residential services for the purposes of this chapter.~~

~~(7) "Semi-independent apartment program" means a residential program in which services are provided on a less than twenty four (24) hour a day basis. Semi-independent apartment programs are not licensed pursuant to chapter 24 of title 40.1.~~

~~(8) "Supportive living arrangement" means a residential setting in which an individual or individuals with developmental disabilities reside in a private home with a person or persons to whom the individual(s) is not related by blood or marriage. Supportive living arrangements are not licensed pursuant to chapter 24 of title 40.1.~~

~~**§ 44-50-3 Imposition of assessment — Residential services for individuals with developmental disabilities.** (a) An assessment is imposed upon the gross patient revenue received by every provider for the provision of residential services in each month beginning April 1, 2003, at a rate of twenty five percent (25%). Every provider shall pay the monthly assessment no later than the twenty fifth (25th) day of each month following the month of receipt of gross patient revenue. Notwithstanding any other provisions of this chapter, no penalty or interest is imposed for failure to make timely payments of the assessments due for the months of April, May and June 2003; provided, that payment for those months are made within thirty (30) days notice from the tax administrator.~~

~~(b) The tax administrator is directed to insure that the assessment rate established in subsection (a) of this section does not exceed the maximum rate of assessment that the laws of the United States and/or any rules, regulations, or standards issued under those laws, relating to health care provider assessments will allow without reduction in federal financial participation. In order to make that determination, the tax administrator shall apply the appropriate federal law and/or any rules, regulations, or standards relating to health care provider assessments.~~

~~(c) If, after applying the applicable federal law and/or rules, regulations, or standards, the tax administrator determines that the assessment rate established in subsection (a) of this section exceeds the maximum rate of assessment that the federal law will allow without reduction in federal financial participation, then the tax administrator is directed to lower the assessment rate to a rate which is equal to the maximum rate which the federal law will allow without reduction in federal participation. The authority of the tax administrator to lower the assessment rate established in subsection (a) of this section shall be limited solely to a determination that the assessment rate in subsection (a) of this section exceeds that which is allowed without reduction in federal financial participation, under the laws of the United States and/or any rules, regulations, or standards issued under this law, relating to health care provider assessments.~~

~~(d) In order that the tax administrator may properly carry out the duties under this section, the director of the department of human services is directed to keep the tax administrator informed of any changes in federal law and/or any rules, regulations, or standards issued under this law that affect rates under health care provider assessments.~~

~~**§ 44-50-4 Returns.** (a) Every provider shall on or before the twenty fifth (25th) day of the month following the month of receipt of gross patient revenue make a return to the tax administrator.~~

~~(b) The tax administrator shall adopt rules, pursuant to this chapter, relative to the form of the return and the data which it must contain for the correct computation of gross patient revenue and the assessment upon such amount. All returns shall be signed by the provider or by its authorized representative, subject to the pains and penalties of perjury. If the return shows an overpayment of the assessment due, the tax administrator shall refund or credit the overpayment to the provider.~~

~~(c) For good cause, the tax administrator may extend the time within which a provider is required to file a return, and if the return is filed during the period of extension no penalty or late~~

~~filing charge may be imposed for failure to file the return at the time required by this chapter, but the provider shall be liable for interest from the date on which the assessment would have been due without extension until the date of payment. Failure to file the return during the period for the extension shall void the extension.~~

~~**§ 44-50-5 Setoff for delinquent assessments.** If a provider shall fail to pay an assessment within thirty (30) days of its due date, the tax administrator may request any agency of state government making payments to the provider to set off the amount of the delinquency against any payment due the provider from the agency of state government and remit that sum to the tax administrator. Upon receipt of the setoff request from the tax administrator, any agency of state government is authorized and empowered to set off the amount of the delinquency against any payment or amounts due the provider. The amount of setoff is credited against the assessment due from the provider.~~

~~**§ 44-50-6 Assessment on available information — Interest on delinquencies — Penalties**~~
~~**Collection powers.** If any provider shall fail to file a return within the time required by this chapter, or shall file an insufficient or incorrect return, or shall not pay the assessment imposed by this chapter when it is due, the tax administrator shall assess upon the information as may be available, which shall be payable upon demand and shall bear interest at the annual rate provided by § 44-1-7 from the date when the assessment should have been paid. If any part of the assessment made is due to negligence or intentional disregard of the provisions of this chapter, a penalty of ten percent (10%) of the amount of the determination shall be added to the assessment. The tax administrator shall collect the assessment with interest in the same manner and with the same powers as are prescribed for collection of taxes in this title.~~

~~**§ 44-50-7 Claims for refund — Hearing upon denial.** (a) Any provider, subject to the provisions of this chapter, may file a claim for refund with the tax administrator at any time within two (2) years after the assessment has been paid. If the tax administrator shall determine that the~~

~~assessment has been overpaid, he or she shall make a refund with interest from the date of overpayment.~~

~~(b) Any provider whose claim for refund has been denied may, within thirty (30) days from the date of the mailing by the tax administrator of the notice of the tax refund claim denial file a written request for hearing with the tax administrator and the tax administrator shall, as soon as practicable, set a time and place for the hearing and shall notify the provider. After hearing, the tax administrator shall issue a decision as to the correctness of the tax, interest and penalty.~~

~~**§ 44-50-8 Hearing by tax administrator on application.** Any provider aggrieved by the action of the tax administrator in determining the amount of any assessment or penalty imposed under the provisions of this chapter may apply to the tax administrator, in writing, within thirty (30) days after the notice of the action is mailed to it, for a hearing relative to the assessment or penalty. The tax administrator shall fix a time and place for the hearing and shall notify the provider. Upon the hearing the tax administrator shall correct manifest errors, if any, disclosed at the hearing and thereupon assess and collect the amount lawfully due together with any penalty or interest.~~

~~**§ 44-50-9 Appeals.** Appeals from administrative orders or decisions made pursuant to any provisions of this chapter shall be to the sixth division district court pursuant to chapter 8 of title 8. The provider's right to appeal under this section shall be expressly made conditional upon prepayment of all assessments, interest, and penalties unless the provider moves for and is granted an exemption from the prepayment requirement pursuant to § 8-8-26. If the court, after appeal, holds that the provider is entitled to a refund, the provider shall also be paid interest on the amount at the rate provided in § 44-1-7.1.~~

~~**§ 44-50-10 Provider records.** Every provider shall:~~

~~(1) Keep such records as may be necessary to determine the amount of its liability under this chapter;~~

~~(2) Preserve the records for the period of three (3) years following the date of filing of any return required by this chapter, or until any litigation or prosecution under this chapter is finally determined; and~~

~~(3) Make the records available for inspection by the tax administrator or his or her authorized agents, upon demand, at reasonable times during regular business hours.~~

~~**§ 44-50-11 Method of payment and deposit of assessment.** — (a) The payments required by this chapter may be made by electronic transfer of money to the general treasurer and deposited to the general fund.~~

~~(b) The general treasurer is authorized to establish an account or accounts and to take all steps necessary to facilitate the electronic transfer of money. The general treasurer shall provide the tax administrator a record of any money transferred and deposited.~~

~~**§ 44-50-12 Rules and regulations.** — The tax administrator shall make and promulgate rules, regulations, and procedures not inconsistent with state law and fiscal procedures as he or she deems necessary for the proper administration of this chapter and to carry out the provisions, policy, and purposes of this chapter.~~

~~**§ 44-50-13 Release of assessment information.** — Notwithstanding any other provisions of the general laws, the tax administrator shall not be prohibited from providing assessment information to the director of the department of human services or his or her designee, with respect to the assessment imposed by this chapter; provided, that the director of the department of human services and his or her agents and employees may use or disclose the information only for purposes directly connected with the administration of the duties and programs of the department of human services.~~

~~**§ 44-50-14 Severability.** — If any provision of this chapter or the application of this chapter to any person or circumstances is held invalid, that invalidity shall not affect other~~

~~provisions or applications of the chapter, which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.~~

SECTION 2. This article shall take effect for provider tax assessment of gross patient revenues related to services provided after June 30, 2009, but shall not apply to assessments of gross patient revenue that due and payable to the State for services provided prior to July 1, 2009.