

Rep. Hess, Merr. 24
Rep. Wallner, Merr. 10
Rep. Kurk, Hills. 2
May 5, 2014
2014-1688h
09/01

Draft Amendment to SB 369-FN-A

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to the Medicaid enhancement tax.

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5 Amend the bill by replacing all after the enacting clause with the following:

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7 1 Medicaid Enhancement Tax; Definition; Hospital Changed to Health Care Provider. Amend
8 RSA 84-A:1, III to read as follows:

9 III. "Health care provider" shall mean any person or entity which provides health care
10 services set forth in 42 C.F.R. section 433.56 (a) (1), (2), (9), (15), (17) and (18) and which has a gross
11 annual revenue for such services in excess of \$500,000.

12 2 Medicaid Enhancement Tax; Definition; Net Patient Services Revenue. Amend RSA 84-A:1,
13 IV-a to read as follows:

14 IV-a. "Net patient services revenue" means the gross charges of ~~[the hospital]~~ **any health**
15 **care provider not specifically exempted from the provisions of this chapter for health care**
16 **services set forth in 42 C.F.R. section 433.56(a)(1), (2), (9), 15, 17, and 18** less any deducted
17 amounts for bad debts, charity care, and payor discounts. "Net patient services revenue" shall
18 include revenues received from the state's uncompensated care account and revenues received from
19 all payers of ~~[inpatient and outpatient patient care]~~ **health care services set forth in 42 C.F.R.**
20 **section 433.56(a)(1), (2), (9), 15, 17, and 18.**

21 3 Imposition of Tax. Amend RSA 84-A:2 to read as follows:

22 84-A:2 Imposition of Tax.

23 *I. For the taxable period beginning July 1, 2014 and ending June 30, 2015, a tax is*
24 *imposed at a rate of ~~[5-5]~~ 5 percent upon the net patient services revenue of every ~~[hospital]~~ health*
25 *care provider for the ~~[hospital's]~~ health care provider's fiscal year ending during the first full*
26 *calendar year preceding the taxable period.*

27 *II. For each taxable period beginning July 1, 2015 and every taxable period*
28 *thereafter, the commissioner of revenue administration shall calculate the tax rate for*
29 *such taxable period. The rate shall be a maximum of 5 percent but shall be reduced in*
30 *order to produce the same amount of revenue received in the taxable period ending June*

1 *30, 2015. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:*

2 *(a) The certification of the tax rate to be applied in each taxable period*
3 *beginning with the taxable period ending June 30, 2016; and*

4 *(b) The forms and any information that shall be furnished to the department*
5 *from health care provider's for certification of the tax rate.*

6 4 New Section; Medicaid Enhancement Tax; Exemptions. Amend RSA 84-A by inserting after
7 section 2 the following new section:

8 84-A:2-a Exemptions. The tax and reporting duties imposed pursuant to this chapter shall not
9 apply to the following entities and activities:

10 I. Nursing homes and other residential care facilities, such as board and care homes, adult
11 foster homes, boarding care homes, and adult day care centers.

12 II. Home health agencies.

13 III. Providers of personal care services .

14 IV. Providers of private duty nursing services.

15 V. An entity that employs health care providers to service only their employees.

16 VI. An educational institution that provides services to its students, if it does not charge for
17 extended coverage.

18 VII. Services provided to nursing homes and in connection with assisted living and
19 congregate housing programs.

20 VIII. Examinations for insurance, employment, and litigation.

21 IX. Mental health services.

22 X. Hospice services.

23 XI. Residential services for the developmentally disabled.

24 5 Tax Due. RSA 84-A:3 is repealed and reenacted to read as follows:

25 84-A:3 Tax Due.

26 I. For the taxable period beginning July 1, 2014, and for every taxable period thereafter,
27 each health care provider shall pay 25 percent of its Medicaid enhancement tax due and payable for
28 the taxable period no later than the fifteenth day of October, January, March, and June of the
29 taxable period. Notwithstanding any provision of this chapter or any other law, no penalty or
30 interest shall be imposed for failure to make payment of tax when due if such payment is made on or
31 before the last day of the month in which such payment is due.

32 II. If the return required by RSA 84-A:4 shows an additional amount of tax to be due, such
33 additional amount is due and payable at the time the return is due.

34 6 Returns. Amend RSA 84-A:4 to read as follows:

35 84-A:4 Returns. Every ~~[hospital]~~ *health care provider* shall on or before the ~~[tenth]~~ *fifteenth*
36 day of ~~[the month following the expiration of]~~ *June in* the taxable period make a return to the
37 commissioner. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the form of

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1 such return and the data which it must contain for the correct computation of net patient services
2 revenue and the tax assessed upon such amount. All returns shall be signed by the taxpayer or by
3 its authorized representative, subject to the pains and penalties of perjury. If such return shows an
4 overpayment of the tax due, the commissioner shall refund or credit the overpayment to the
5 [hospital] **health care provider** in accordance with RSA 21-J:28-a.

6 7 Method of Payment; Reference Corrected. Amend RSA 84-A:5, I to read as follows:

7 I. The payments required by RSA 84-A:3[~~I-a~~] shall be made by electronic transfer of
8 moneys to the state treasurer and deposited to the uncompensated care fund established by RSA
9 167:64.

10 8 Confidentiality of Records; Exception. Amend RSA 84-A:10 to read as follows:

11 84-A:10 Confidentiality of Records.

12 I. Notwithstanding the provisions of RSA 21-J:14, the commissioner shall not be prohibited
13 from providing tax information to the commissioner of health and human services with respect to the
14 tax imposed by this chapter, provided that the commissioner of health and human services and his
15 agents and employees shall be subject to the provisions of RSA 21-J:14 with respect to any tax
16 information provided by the commissioner.

17 *II. Notwithstanding paragraph I and the provisions of RSA 21-J:14, the*
18 *commissioner of health and human services shall not be prohibited from providing tax*
19 *information in accordance with department of revenue administration compacts for the*
20 *exchange of information between the department of health and human services and the*
21 *United States Department of Health and Human Services' Centers for Medicare and*
22 *Medicaid Services, but only for the purpose of, and to the extent necessary for, the*
23 *calculations of the federal waiver process under 42 C.F.R. section 433.68.*

24 9 Change From "Hospital" to "Health Care Provider." Amend the following RSA provisions by
25 replacing "hospital" or "hospitals" with "health care provider" or "health care providers:" 84-A:1, VI,
26 84-A:6, 84-A:7, 84-A:8.

27 10 Effective Date.

28 I. Sections 5-8 of this act shall take effect July 1, 2014.

29 II. The remainder of this act shall take effect upon its passage.

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AMENDED ANALYSIS

This bill revises services taxable under the Medicaid enhancement tax and changes the rate of the tax. The bill also changes payment of the tax to 4 times per year.