

Health Headlines

April 2, 2012

CMS Reminds Providers How to Determine Allowable Provider Taxes

In an email circulated to providers last week, CMS reminded providers to comply with reasonable cost rules in determining allowable healthcare-related taxes, or provider taxes. Payments to a provider that are “associated with” an otherwise allowable provider tax must be netted against the provider tax reported on the provider’s cost report.

According to CMS, only the provider’s net tax expense is an allowable cost—*i.e.*, “taxes deemed reasonable, that have been actually incurred and paid by a provider, reduced by payments the provider received that are associated with the tax.” Providers must maintain documentation and financial records to support the net tax expense incurred. Failure to do so could result in disallowance of the entire claimed provider tax amount.

This is the latest policy “clarification” issued by CMS aimed at reducing the Medicare cost report allowance of “provider taxes,” which have increasingly been used by states as a means of increasing Medicaid reimbursement through enhanced federal financial participation. A controversy surrounding CMS’s interpretation of a prior version of the Provider Reimbursement Manual on provider taxes remains pending in Circuit Court. Moreover, the overly broad and vague “associated with” standard adopted by CMS in its current application of reasonable cost reporting principles with respect to this issue is a concern for providers struggling with this issue. Providers should analyze their Medicaid provider tax programs carefully under CMS’s recent and historical guidance, and consider utilizing the protest procedures on the cost report to preserve any appeals relating to this issue.

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