Kansas Legislative Research Department

Jennifer Ouellette
Principal Fiscal Analyst
785-296-3181
Jennifer.Ouellette@klrd.ks.gov

Health and Social Services

F-3 Provider Assessments

Provider Assessment

A provider assessment is a mechanism used to maximize the amount of federal funding for the state by collecting new state funds that may be used to draw down additional federal funds. This mechanism can result in increased Medicaid payments for the specified providers assessed for Medicaid-eligible services.

In order to implement a provider assessment, the federal Centers for Medicare and Medicaid Services (CMS) must first review and approve the provider assessment model designed by the State. CMS guidelines state that for a provider assessment to be approved, it must be uniformly enforced across all providers. Certain categories of providers can be excluded, but all providers of that category type then must be excluded from the assessment. In addition, CMS guidelines state that no provider within an assessed category is allowed to be excluded, even if that provider is negatively impacted. This means that all providers must be included in the provider assessment, even if some may experience a negative fiscal impact.

For FY 2016–FY 2017, 49 states and the District of Columbia had some form of Medicaid-related provider assessments. Currently, Kansas has two implemented provider assessments: one for hospitals and one for nursing facilities. The State has authorized an additional provider assessment to be submitted if CMS were to approve the category of Home and Community Based Services providers for individuals with intellectual/developmental disabilities. The models for provider assessments vary by state based on the population needs and structure of the provider system being assessed. For example, some states assess funds from nursing facilities based on how many Medicaid days a resident spends in a licensed nursing bed. However, in Kansas, the 2010 Legislature passed a version that assesses funds annually based on licensed nursing facility beds.

Health Care Access Improvement Program

The Health Care Access Improvement Program (HCAIP), established by 2004 Senate Sub. for HB 2912, was created to use an annual assessment on inpatient services provided by hospitals

and on non-Medicare premiums collected by health maintenance organizations (HMOs) to improve and expand health care in Kansas for low income persons (KSAs 65-6208 through 65-6220). The assessment paid by hospitals is used as a state match to draw down additional federal funding. The HMOs' assessment was not implemented, although additional revenues are collected from HMOs through a privilege fee.

Some hospital providers that are state agencies, state educational institutions, or critical access hospitals are exempt from the provider assessment. The State mental health hospitals and developmental disability hospitals also are exempt. The hospital provider assessment amount is an annual assessment of 1.83 percent on hospital inpatient services of net inpatient operating revenue. The HMOs' assessment amount was to be an annual assessment of 5.90 percent of net revenue. No funds collected through HCAIP are allowed to be transferred to the State General Fund at any time.

The 2012 Legislature approved HB 2416, which changed a hospital's base fiscal year for net inpatient operating revenue used to calculate the hospital provider assessment. The bill amended the statute that addresses the annual assessment on inpatient services imposed on each hospital provider to base the assessment on an amount equal to 1.83 percent of each hospital's net inpatient operating revenue for FY 2010. If a hospital does not have a complete 12-month fiscal year for FY 2010, the assessment will be $200,000 until the hospital has completed its first 12-month fiscal year, at which time the assessment will be 1.83 percent of the net operating revenue of such hospital's first completed 12-month fiscal year.

The hospital portion of HCAIP stipulates not less than 80.0 percent of the funds collected from the hospital provider assessment can be disbursed to hospital providers through a combination of Medicaid access improvement payments and increased Medicaid rates on designated diagnostic related groupings, procedures, and codes. In FY 2017, this resulted in a net revenue of $51.9 million from all funding sources. In addition, no more than 20.0 percent of the funds collected from hospital provider assessment can be disbursed to doctors or dentists through increased Medicaid rates on designated procedures and codes. Finally, not more than 3.2 percent of the funds collected from the hospital provider assessment can be used to fund health care access improvement programs in undergraduate, graduate, or continuing medical education, including the Medical Student Loan Act.

Nursing Facility Quality Care Assessment

In 2010, Senate Sub. for Senate Sub. for Sub. for HB 2320 was enacted and established a provider assessment program for skilled nursing facilities, the Nursing Facility Quality Care Assessment, for up to $1,950 on each licensed bed within skilled nursing care facilities, which includes nursing facilities for mental health and hospital long-term care units and excludes the Kansas Soldiers' Home and the Kansas Veterans' Home from the assessment (KSA 75-7435). The 2016 Legislature passed Senate Sub. for HB 2365, which raised the maximum annual amount from $1,950 to $4,908 per licensed bed.

In FY 2017, there were 327 licensed skilled nursing facilities in Kansas operating as Medicaid providers.

Skilled nursing care facility licensed beds that are excluded from qualifying to be assessed up to the full amount of $4,908 include: continuing care retirement facilities (defined as facilities that must hold a certificate of registration from the Commissioner of Insurance); small skilled nursing care facilities (defined as less than 46 licensed nursing beds); and high federal Medicaid volume skilled nursing care facilities (defined as facilities having more than 25,000 federal Medicaid days). The amount assessed to these identified skilled nursing care facilities cannot exceed one-sixth, or a maximum of $818, of the actual amount assessed for the other skilled nursing care facilities.

All funds collected through the Nursing Facility Quality Care Assessment are used to finance initiatives designed to maintain or increase the quantity and quality of nursing care in licensed

facilities. No funds can be transferred to the State General Fund at any time or used to replace existing funding.

If any additional funds are available, they must be used for an increase of the direct health care costs center limitation up to 150 percent of the case mix adjusted median, and then for approved quality enhancement for skilled nursing facilities. At no point would any amount of the assessed funds be allowed to provide for bonuses or profit-sharing for any officer, employee, or parent corporation.

Assessed funds may be used to pay employees who are providing direct care to a resident in a skilled nursing facility.

The provider assessment originally was to sunset after the first four years of implementation, which would have been July 2014. After the first three years or July 2013, the assessment amount was to be adjusted to be no more than 60.0 percent of the assessment collected in previous years. During the first year of the Nursing Facility Provider Assessment, which started in July 2010, the assessment was used exclusively to pay for administrative expenses incurred by the Kansas Department on Aging (now the Kansas Department for Aging and Disability Services), increased nursing facility payments to fund covered services to Medicaid beneficiaries, restoration of the 10.0 percent provider reduction in effect for dates of service from January 1 through June 30, 2010, and restoration of funding for FY 2010 rebasing and inflation to be applied to rates in FY 2011.

During the second year of the Nursing Facility Quality Care Assessment, the 2010 law's 10.0 percent provider reduction no longer needed to be restored, but increased payments to nursing facilities, reimbursement of administration costs, and rebasing and inflation were applied. In FY 2017, the provider assessment resulted in $39.9 million from all funding sources for increased payments to providers.

The 2013 Legislature passed HB 2160, which amended the statute that created a provider assessment on licensed beds in skilled nursing care and eliminated the sunset provision in the law. The expiration of the assessment program was extended for two additional years, or until July 1, 2016. The bill also eliminated the provision directing that after the first three years, the assessment amount was to be adjusted to no more than 60.0 percent of the assessment collected in previous years. The 2016 Legislature extended the expiration date of the assessment by four years, from July 1, 2016, to July 1, 2020, in Senate Sub. for HB 2365. The bill also requires the implementation of the statutory three-year rolling average to determine nursing facilities' reimbursement rates, notwithstanding the provisions of the 2015 Appropriations Bill for FY 2017.

Developmental Disabilities Provider Assessment

The 2011 Legislature passed SB 210, which created a provider assessment model for Home and Community Based Services Developmental Disabilities (HCBS/DD) providers and based assessments on the gross revenues received for providing services to individuals with developmental disabilities. Gross revenues excluded any charitable donations. The assessed funds could be used to draw down additional federal match funds that could be used for enhanced rates to providers.

The provider assessment for developmental disabilities providers has not been implemented as the providers are not an approved class of providers on which a provider assessment can be levied. The assessment would be contrary to federal regulations on managed care.

For more information, please contact:

Jennifer Ouellette, Principal Fiscal Analyst
Jennifer.Ouellette@klrd.ks.gov

David Fye, Principal Fiscal Analyst
David.Fye@klrd.ks.gov

Kansas Legislative Research Department
300 SW 10th Ave., Room 68-West, Statehouse
Topeka, KS 66612
Phone: (785) 296-3181
Fax: (785) 296-3824