Overview

- Funding Medicaid & Health Care
  - the never-ending debate
- Provider Taxes or Fees
- Current review of 50 states
- Special issues; CMS roles
- National Health Reform
  - More enrollees = more provider $?
  - Budget Control Act; sequestration or other new laws could cut state rates in half?

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**Health care may gobble 20% of economy by 2015**

By Kevin Freking
The Associated Press

WASHINGTON — Within a decade, an aging America will be spending one of every five dollars on health care, according to government analysts.

The nation’s total health-care bill by 2015: more than $4 trillion. Consumers will foot about half the bill, the government the rest.

Hospital costs will rise more quickly than previously anticipated, reflecting a construction boom for urban hospitals.

Meanwhile, drug costs are expected to be somewhat restrained, in part because of the new Medicare prescription drug program.

The projections, published in the journal Health Affairs, come as President Bush focuses on the rising cost of health care. In his State of the Union address last month, the president pushed health savings accounts and the high-deductible insurance plans that go with them.

The administration predicts Americans would become more thrifty if they had to pay more of the upfront costs, which occurs with health savings accounts.

The report, written by analysts with the Centers for Medicare and Medicaid Services, attributes rising costs to the aging of the baby-boom population and the changing nature of health insurance. They forecast a 7.2 percent annual increase in health-care costs over the coming decade. That’s in line with the 7.4 percent increase in 2005.

Still, the overall economy is projected to grow at a rate of 5.1 percent over the coming decade, which means health care will play an ever-growing role.
Provider Taxes or Fees: State-initiated Pipelines to Federal Matching Funds

- A legally proven and widely used health funding tool allowing increased federal Medicaid matching funds.
- A magic bullet? A "cash cow"?
- A slippery slope?
- The most popular vehicle despite the "tax" label -- often categorized as a "fee" or "assessment."

A brief history: Mid-1980s started as the "nursing home tax." 1991 Congress defined & restricted use. 2007-08 CMS restrictions promulgated, sued, withdrawn. 5.5% cap.
Provider Tax & Fee Basics

- **Defined**: any mandatory payment, including licensing fees or assessments, in which at least 85% of the burden falls on health care providers.

- **Federal regulations**: 19 different classes of health care services on which provider taxes may be imposed. 5 in widespread use.

- **Taxes Must Be Broad-Based**: Must apply to all the health care items or services furnished by all the non-federal, non-public providers in the class in the state. (e.g., not just Medicaid providers)

- **Taxes Must Be Uniformly Imposed**: Same amount or rate for each provider in the class.

- **Taxes Cannot Hold Providers Harmless**: No guarantee allowed that a facility will get 100% back.
How a Provider Tax or Fee Works - 1

Figure 1. Provider Tax Example for a State with 60% FMAP
Using Nursing Home Provider Tax Revenue to Increase Medicaid Reimbursement Rates to Nursing Homes

<table>
<thead>
<tr>
<th>All Nursing Homes in the state</th>
<th>State Government with 60% FMAP</th>
<th>Nursing Homes with Medicaid beneficiaries</th>
<th>Federal Government</th>
</tr>
</thead>
<tbody>
<tr>
<td>- $10 million tax payments</td>
<td>+ $10 million tax payments</td>
<td>+ $8 million Medicaid payments</td>
<td>- $4.8 million Federal Medicaid Matching Funds</td>
</tr>
<tr>
<td></td>
<td>- $8 million Medicaid payments</td>
<td>+ $4.8 million FFP</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>+ $6.8 million for other Medicaid or non-Medicaid purposes</td>
<td></td>
</tr>
</tbody>
</table>

Source: Teresa A. Coughlin and Stephen Zuckerman, States’ Use of Medicaid Maximization Strategies to Top Federal Revenues: Program Implications and, Urban Institute, June 2002. Based on Figure 1.
How a Provider Tax/Fee Works - 2
State Actions

- Creation or adding new providers requires state statute.
- Do a non-statutory calculation / estimation of how the providers fare - "winners and losers?"
- States do **not** need CMS approval for provider taxes that adhere to federal requirements.
- If a state wants a waiver from "broad-based and uniform" that does need CMS approval.

- Which states use provider taxes --
Provider Taxes, Fees and Assessments in State Law

47 States and D.C.

Source: NCSL analysis of Vern Smith FY2012 Survey
Data as of Sept. 2011; map designed Aug. 2012
FIGURE 24
States with Provider Rate Changes FY 2009 – FY 2012

States with Rate Increases


States with Rate Restrictions

NOTE: Past survey results indicate adopted actions are not always implemented. Any provider includes all other provider groups mentioned. Rate restrictions include rate cuts for any provider and also frozen rates for inpatient hospitals and nursing homes.

FIGURE 25
States With Medicaid Provider Taxes FY 2009 – FY 2012

NOTES: ICF/MR-DD facilities are Intermediate Care Facilities for persons with mental retardation or developmental disabilities.
### Table 2: Number of States with Changes in Provider Taxes, by Provider Type, FY 2011 and FY 2012

<table>
<thead>
<tr>
<th>Provider Taxes</th>
<th>Rate Decreases</th>
<th>Rate Increases</th>
<th>Total Taxes</th>
<th>Taxes Above 3.5% Net Patient Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hospital</td>
<td>2</td>
<td>1</td>
<td>13</td>
<td>17</td>
</tr>
<tr>
<td>ICF-ID</td>
<td>0</td>
<td>0 (1 tax was eliminated)</td>
<td>3</td>
<td>12</td>
</tr>
<tr>
<td>Nursing Facility</td>
<td>1</td>
<td>0</td>
<td>11</td>
<td>21</td>
</tr>
<tr>
<td>MCO</td>
<td>0 (1 tax was eliminated)</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Other Provider</td>
<td>0</td>
<td>0 (1 tax was eliminated)</td>
<td>2</td>
<td>1</td>
</tr>
</tbody>
</table>

**Health Provider**

**State Increases**

- Hospital = 30
- ICF-Mental Ret; Dev. Disability = 15
- Nursing Facility = 32
- Managed Care Organization = 2
- Other provider = 3

*Source: KCMU survey of Medicaid officials, Sept. 2011*
## TABLE 30
Changes During Fiscal 2012 to Generate Additional Resources for Medicaid

<table>
<thead>
<tr>
<th>Region/State</th>
<th>Tobacco Tax</th>
<th>Provider Tax/Fee</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>California</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Connecticut</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Idaho</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Illinois</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indiana*</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Maine</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Maryland*</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Michigan*</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Nebraska</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Nevada*</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New York</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>North Carolina</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ohio*</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Oklahoma</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oregon</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>X</td>
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<td></td>
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<td>Tennessee</td>
<td>X</td>
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<tr>
<td>Texas*</td>
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<td></td>
<td>X</td>
</tr>
<tr>
<td>Utah</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vermont</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Virginia</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>2</strong></td>
<td><strong>16</strong></td>
<td><strong>6</strong></td>
</tr>
</tbody>
</table>

**NOTES:** *See Notes to Table 30 on page 65.*

Source: NGA/NASBO Fiscal Survey Spring 2012
Increases in 2011-12

Examples:

- Indiana’s new 2.7 percent hospital assessment fee
  - Paid by 120+/- hospitals for two years
  - Estimated revenue of $200 million a year;
  - Also raised the health facility quality assessment from 4% to 5.5% for 3 years. Total revenue est. >$450 million in FY 2012.
    - 2011 budget, Act No. 1001

- Connecticut calculates to raise $400 million with:
  - A new tax on hospital net revenue;
  - A new resident day user fee for certain intermediate care facilities;
  - An increased cap on nursing home resident user fees.
Provider Taxes: Danger Ahead?

No restriction or legally binding change enacted yet … but

- Federal Budget Control Act of 2011 to reduce federal spending.
- Proposals to cut tax maximum from 6% back to 3.5%.
- CBO option to reduce threshold to 3% = reduce federal Medicaid by $48 billion FY2010-FY2019.

- PPACA - Expansions? Rollbacks? Repeals?
Going Beyond Providers: Massachusetts 2012 law S. 2400
Signed August 6, 2012

- Directs that total healthcare costs cannot increase faster than the Massachusetts gross state product (GSP) from 2013 through 2017. Lower in 2018 and beyond.

- Creates a $165 million surcharge on health insurers and a $60 million surcharge on larger hospitals to finance a prevention and wellness program and $135 million for community hospital infrastructure upgrades.

- Trust money will fund state grants for programs to reduce the rates of preventable chronic diseases such as obesity, diabetes and asthma.
Cost Containment: Project Resources

- 16 Topic Reports + articles and easy links
- Look at actual vs. projected savings
- Consider multi-payer strategies
- Pursue new federal opportunities
- Many strategies seem to work best in integrated systems
- Upfront investment often required
- Capturing savings can be a challenge
- Program size matters
- Multi-pronged strategies likely hold the most promise

Note: NCSL takes no position for or against particular state laws or policies.
Expert Sources

- Vern Smith (former Medicaid Director in Michigan)
  Vsmith@healthmanagement.com


- CMS/HHS – Penny Thompson (Deputy Director)
  Penny.Thompson@CMS.hhs.gov

- CRS -"Medicaid Provider Taxes" (March 15, 2012)
  Alison Mitchell  amitchell@crs.loc.gov

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