Vol. 70, Issue 38
Thursday, September 24, 2026

WHA Expresses Support for CMS Proposed Rule that Clarifies Wisconsin's Provider Tax Meets Criteria to be Grandfathered in Line with Other States

On Sept. 21, WHA provided comments in support of the Centers for Medicare & Medicaid Services (CMS) proposed rule, entitled *Medicaid Program; Amending the Indirect Hold Harmless Threshold of Health Care-Related Taxes Proposed Rule*. The proposed rule clarifies that Wisconsin's hospitals assessment meets the criteria specified in the One Big Beautiful Bill Act (Public Law 119-21) to be grandfathered at a rate of approximately 6%, in line with many other states across the country.

Specifically, the proposed rule clarifies definitions of the words "enacted" and "imposes" compared to previous definitions CMS had put out as preliminary guidance in a Nov. 14, 2025, *Dear Colleague* letter.

"PL 119-21 effectively grandfathered the provider tax threshold for a non-expansion state like Wisconsin at up to 6% of net patient revenue if 'on the date of enactment. . . such State has enacted a tax and imposes such tax.' In conversations with our state officials, it is clear Wisconsin intentionally enacted and imposed its current provider tax level consistent with the requirements of PL 119-21," said WHA President and CEO Kyle O'Brien, in the letter. "We applaud CMS for acknowledging that this proposed rule's definitions of enacted and imposed more appropriately reflect CMS and State practices regarding waiver requests and effective dates than did the preliminary guidance issued in the Nov. 14, 2025, *Dear Colleague* letter," he added.

In the clarified definition of *enacted*, CMS states that “Enacted means that the applicable State or local government has completed the entire legislative process necessary to authorize (either initially or to amend an existing tax, as applicable) the specific tax structure that was in effect on July 4, 2025.” Regarding the definition of *imposed*, CMS states, “Imposed means that the tax was in effect on July 4, 2025. If the tax requires a broad-based or uniformity tax waiver, CMS has approved the tax waiver with an effective date of July 4, 2025, or earlier.”

WHA worked with members of Wisconsin's Congressional Delegation as well as Governor Evers' administration to help ensure CMS clarified these definitions in line with the statute, of which Wisconsin based its actions. Because the new definitions clarify that Wisconsin meets the criteria for grandfathering, Wisconsin hospitals are projected to see an increase of approximately $740 million in additional annual federal Medicaid funding through 2027. This is projected to reduce by about half the $1.3 billion in hospital losses caused by inadequate Medicaid reimbursement rates.

"We are immensely grateful for the strong bipartisan support Wisconsin hospitals received from our Congressional Delegation as well as Governor Evers and state lawmakers," said O'Brien. "We are also extremely appreciative of CMS for listening to Wisconsin's concerns. CMS’s actions in this proposed rule will help us better serve Medicaid patients and support our hospitals' mission to provide life-saving care to the communities they serve."

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