



Financial Management Group

May 15, 2026

Tyler Sadwith
State Medicaid Director
Department of Health Care Services
State of California
1501 Capitol Avenue, 6th Floor, MS 0000
Sacramento, CA 95814

Dear Director Sadwith:

This is in response to your request for a waiver of the broad-based and uniformity requirements related to the State of California's Skilled Nursing Facility (SNF) Quality Assurance Fee (QAF) on services of nursing facilities. Upon review and consideration of the information formally provided to the Centers for Medicare & Medicaid Services (CMS) on March 28, 2025, I am writing to inform you that your request for a waiver of the broad-based and uniformity provisions of sections 1903(w)(3)(B) and (C) of the Social Security Act (the Act) is approved.

The tax structure for which the state requested a waiver would be imposed as follows:

- i. Continuing care retirement communities are excluded from the tax;
- ii. Distinct Part Nursing Facilities are excluded from the tax;
- iii. Institutions for mental diseases that provide skilled nursing facility care are excluded from the tax;
- iv. State or publicly owned and operated nursing facilities are excluded from the tax;
- v. Nursing facilities with 100,000 or more total annual resident days will be assessed \$20.74 per patient day; and
- vi. Multi-level care facilities and nursing facilities with less than 100,000 total annual resident days will be assessed \$21.60 per patient day.

Section 1903(w)(3)(E) of the Act specifies that the Secretary shall approve broad-based and uniformity waiver applications if the net impact of the tax is generally redistributive, and the amount of the tax is not directly correlated to Medicaid payments.

Federal regulations at 42 CFR § 433.68(e)(2) describe the statistical test necessary for a state to demonstrate that the proposed tax structure is generally redistributive. The state's statistical demonstration is addressed below. Moreover, federal regulations at 42 CFR § 433.68(f) describe the circumstances in which a direct correlation would exist. Upon review of the state's statute implementing the proposed services of nursing facilities tax and the state's proposed methodology for increasing Medicaid reimbursement to nursing facilities, it appears that no direct correlation exists between the tax and any associated increases in Medicaid reimbursement.

Analysis

To determine the generally redistributive nature of the proposed services of nursing facilities patient day tax, the state calculated the slope (expressed as B1) of a linear regression for a broad-based and uniform tax in which the dependent variable was each nursing facility's percentage share of the total tax paid, if the tax was uniformly imposed on all patient days of all nursing facilities in the state and the independent variable was each nursing facility's number of Medicaid patient days.

The state then calculated the slope (expressed as B2) of a linear regression for the state's actual proposed tax program in which the dependent variable was each nursing facility's percentage share of the total tax paid and the independent variable was the Medicaid patient bed days for each nursing facility.

Using the patient day and tax rate data you provided, CMS also performed the regression analysis calculations required in the regulations for the proposed tax. CMS finds that the result of the generally redistributive calculation for the state's services of nursing facilities tax is **1.7439**.

Therefore, we are able to approve your request for a waiver of the broad-based and uniformity provisions of sections 1903(w)(3)(B) and (C) of the Act for the proposed nursing facility Medicaid patient bed days tax. Please be advised that any future changes to the taxing structure, including a non-uniform change to the approved tax rates, may require the state to submit a new broad-based and/or uniformity waiver request.

Federal regulations at 42 CFR § 433.72(c)(2) specify that a waiver will be effective for tax programs commencing on or after August 13, 1993, on the first day of the calendar quarter in which the waiver is received by CMS. CMS received the state's initial request for a waiver of the broad-based and uniformity requirements on March 28, 2025, with a requested effective date of January 1, 2025. Therefore, the effective date of the state's request for a waiver of the broad-based and uniformity requirements is January 1, 2025. Please be advised that any changes to the federal requirements concerning health care-related taxes may require the state to come into compliance by modifying its tax structure.

Please also note that on November 14, 2025, CMS issued a Dear Colleague Letter providing preliminary guidance regarding the implementation of section 71115 of the "Working Families Tax Cut (WFTC) legislation."¹ In that letter, CMS outlined the circumstances under which revenues collected under a tax structure that was both enacted and imposed as of July 4, 2025, would be included in determining the applicable percent for purposes of the indirect hold harmless threshold, which will apply beginning October 1, 2026.

Effective October 1, 2026, any revenues from taxes imposed on permissible classes that exceed the indirect hold harmless threshold calculated in accordance with section 71115 of WFTC legislation may be disallowed from Medicaid expenditures, in accordance with section 1903(w)(1)(A)(ii) of the Act and 42 CFR § 433.70(b). We strongly encourage you to remain

¹ Public Law 119-21.

mindful of the requirements under section 71115 and to monitor future communications from CMS for updates or changes relevant to compliance with this provision.

CMS reserves the right to perform a financial management review at any time to ensure that the state's operation of the tax on nursing facilities continues to meet the requirements of section 1903(w) of the Act. This may include a review of data that was not available during CMS's original review. CMS may deduct revenues from any health care-related tax found to be impermissible, in accordance with section 1903(w)(1)(A)(ii) of the Act and 42 CFR § 433.70(b).

If you have further questions or need additional information, please contact Jonathan Endelman at 667-290-9494.

Sincerely,

Originally Signed by

Rory Howe
Director