



BENEFIT NEWS BRIEFS

Update On Michigan 1% Health Care Claims Tax

Does It Apply To Out-Of-State TPAs and Multiemployer GHPs?

In [Benefit News Briefs 2011-56](#), we took a detailed look at a new Michigan law that levies a 1% tax on health care claims in Michigan. The law is the *Health Insurance Claims Assessment (HICA) Act*. The tax applies to certain paid health care claims beginning January 1, 2012 and ending January 1, 2014. We will focus on the effect the law has on multiemployer plans, although the law also applies to single-employer plans.

Generally, the *HICA Act* applies to certain insurance carriers, third-party administrators (TPAs), and self-insured entities (including Taft-Hartley multiemployer group health plans (GHPs)) that pay *health claims for Michigan residents for health-related services performed in Michigan*. The assessment is levied upon the "paid claims" of those entities.

"Paid claims," are defined as "*actual payments, net of recoveries, made to a health and medical services provider or reimbursed to an individual by a carrier, third party administrator, or excess loss or stop loss carrier.*"

"Health and medical services" is broadly defined to include "*services included in furnishing medical care.*"

It should be noted that the **tax includes benefit payments made for prescriptions, durable medical equipment, dental and vision services**. (See *FAQs 28-31, 44 and 45*). The *HICA Act Frequently Asked Questions (FAQs)* were updated December 6, 2011 by adding FAQs 38-49 and available by "[clicking here](#)" or at: http://www.michigan.gov/taxes/0,4676,7-238-43519_59498-264523--,00.html.

The Research Department was asked if the law applied only to Michigan-based TPAs or also applied to an out-of-state TPA which pays claims for Michigan residents for health-related services performed in Michigan. We spoke with staff of the Michigan Department of Treasury, Tax Policy Division about the reach of the

statute. Much like the New York State hospital surcharge, out-of-state TPAs must pay the tax also. Basically, if an entity meets the definition of "carrier" or "third party administrator" under the Act, regardless whether the entity itself is located in Michigan, it is subject to the law. Thus, in addition to out-of-state TPAs being subject to pay the tax, out-of-state multiemployer GHPs that pay claims for Michigan residents for health-related services performed in Michigan will also be responsible to pay the tax. The payment of claims and such by these out-of-state entities is deemed to supply the "minimum contacts" required by the U.S. Constitution for Michigan to have jurisdiction to require payments of the tax.

The Michigan Department of Treasury has been contacting entities it believes will be covered by the law and informing them of the tax. However, it is likely that many out-of-state TPAs or multiemployer GHPs that pay claims subject to the tax will be missed. Such out-of-state TPAs or GHPs may wish to check the residency of the participants for which it pays claims to Michigan service providers. In addition to Michigan TPAs and GHPs, it would seem more likely that TPAs and GHPs in the states surrounding Michigan would most likely be required to pay taxable claims given their proximity to Michigan.

A newly released presentation is available by "[clicking here](#)" or at: http://www.michigan.gov/documents/taxes/HICA_Info_Seminars_370417_7.ppt.

The main *HICA Act* website is at: <http://www.michigan.gov/taxes/0,4676,7-238-43519-264498--,00.html> and contains various tax filing forms.

Although the *Act* is scheduled to sunset in 2014, the Research Department was informed it is likely that some form of the *Act* will be extended or re-enacted after that date. Apparently, the *Act* was intended to comply with new federal mandates regarding how states can raise revenues that are intended to support Medicaid programs and leverage federal matching Medicaid dollars. The short timeframe for the *Act* was likely put into place so that the legislature can assess whether the monetary goal is being reached and, if not, make changes to the *Act*.

If the law is successful, one could imagine other states following in Michigan's path.

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