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POLICY BRIEF

Over a Decade, the ACA Fee on MassHealth Will Cost Hundreds of Millions of Dollars

by Lauren Corvese and Josh Archambault

Introduction

In part to fund coverage expansions under the Patient Protection and Affordable Care Act (ACA), the federal law included over twenty taxes and other revenue-raising initiatives. One such tax is the Health Insurer Provider Fee (HIPF), a tax levied in part on entities that provide coverage and coordinate care for enrollees of Medicaid, a program called "MassHealth" in Massachusetts.

Originally, the ACA required the expansion of Medicaid to 133 percent of the federal poverty level (FPL) — effectively 138 percent of FPL due to an income disregard. In Massachusetts, a state with a history of a very generous Medicaid program, the expansion has been relatively small in comparison to other states, but the tax impact has not.

While the ACA insurer fee, or HIPF, is required to be paid by some of MassHealth's contracted Managed Care Entities (MCEs), it is actually being passed on to taxpayers instead.

In practice, since Medicaid is jointly funded by states and the federal government, the federal government is effectively taxing itself and the states to fund the HIPF. In other words, the new tax triggers additional taxpayer spending, compared to pre-ACA spending, instead of coming from the companies' coffers. In Massachusetts, state lawmakers have explicitly set aside additional taxpayer money every year to cover the tax liability.

The HIPF has been one of the more contentious taxes created by the ACA. In fact, a recent Omnibus Appropriations Act suspended the collection of the fee for 2017.

Analysis of the effect of the HIPF in Massachusetts is vital as currently a quarter of the state population is enrolled on MassHealth, resulting in the single-largest line-item in the state budget. Any additional taxpayer money spent on MassHealth, in any form, by definition translates into less money for education, public safety, roads or any other public priority.

Given the current size of MassHealth, the 2015 HIPF cost the state $36 million based on 2014 premiums. In Massachusetts, 79.2 percent of MassHealth premiums are paid to non-profit entities. Of the non-profit

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premiums, 61.9 percent is paid to MCEs who are exempt from the HIPF. As a result of this non-profit heavy make-up and other exclusions, only 51 percent of Medicaid premiums are subject to the HIPF.[1]

Since Medicaid is a joint federal and state program, Massachusetts will be reimbursed at an average rate of 50 percent for the $36 million that it pays for the HIPF, resulting in a net cost to the Commonwealth of $18 million for 2015. However, with the reimbursement from the federal government stemming from tax revenue, Massachusetts taxpayers still bore the $36 million cost in 2015. This means that over the next ten years, even accounting for the 2017 moratorium, the HIPF will cost taxpayers at least $324 million, with $162 million coming directly from the Massachusetts state government.

This brief is part of an ongoing and occasional series from Pioneer Institute examining the direct effects of the ACA on Massachusetts. (See end of paper for examples.)

The ACA Insurer Fee: How it Works

Many states, including Massachusetts, have contracts with Managed Care Organizations (MCOs) to which they make Medicaid Managed Care payments. MCOs, one of the most common types of MCE,[2] are entities providing Managed Care, defined by Medicaid.gov as:

> "the delivery of Medicaid health benefits and additional services through contracted arrangements between state Medicaid agencies and managed care organizations (MCOs) that accept a set per member per month (capitation) payment for these services."[3]

The theory underlying MCOs is that by paying for healthcare with a set payment, insurers will create partnerships between doctors, clinics, and other providers to better coordinate the care of their members and improve its quality, potentially saving money in the process.

There are six Medicaid MCOs in Massachusetts: Tufts Health Plan, Fallon Community Heath Plan, Neighborhood Health Plan, Health New England, BMC HealthNet Plan, and Celticare Health. All are non-profits, except for Celticare. Additional MCEs include five Senior Care Options[4] (SCO), eight Programs for All-Inclusive Care for the Elderly[5] (PACE) and one Behavioral Health managed care entity[6] (MBHP), all of which receive premiums from MassHealth in the form of prospective capitation payments that are subject to the HIPF. The majority of these entities are non-profit and meet the criteria for exclusion from the fee, which will be discussed later in this paper.

Breakdown of Projected HIPF Cost Calculations

The HIPF is described in section 9010(a) of the ACA and requires insurers to pay an annual fee of $8 billion to the federal government. The fee was first imposed in 2014 and increases annually to $14.3 billion in 2018, after which the annual fee will be indexed to the rate of premium growth for all subsequent years[7] (see Figure 1). Insurers must pay a portion of this fee based on their share of the national market of commercial, Medicare, Medicaid, and State Children Health Insurance Plan (SCHIP) premium revenues.

In accordance with its designers' intent, the HIPF is imposed most heavily on large insurers, with lower to no cost for smaller insurers. To elaborate, all insurers have zero percent of their first $25 million in net Medicaid premiums considered by the Internal Revenue Service (IRS) when calculating an insurer's HIPF contribution. Only 50 percent of the next threshold, $25 million to $50 million, is subject to consideration. As Figure 2 shows, 100 percent of net premiums over $50 million are subject to the HIPF calculation. The goal of these thresholds is to reduce the market share included in the tax calculation, thereby decreasing the portion of the HIPF that would apply to smaller insurers.

Unintended Effects

The Non-Profit Exemption

Included in the ACA is an exemption from the HIPF for certain non-profit contractors. Non-profit entities that receive over 80 percent of their premium revenue from Medicare, Medicaid, SCHIP, and dual-eligible plans are exempt from paying the ACA insurer fee.[10]

Figure 1. Amount of the HIPF to be Assessed on Insurers Nationally, by Year[8]

Fee Year	Applicable Amount
2014	$8,000,000,000
2015	$11,300,000,000
2016	$11,300,000,000
2017	$13,900,000,000
2018	$14,300,000,000
2019 and thereafter	The applicable amount in the preceding fee year increased by the rate of premium growth (within the meaning of section 36B(b)(3)(A)(ii))

Figure 2. Insurer Premium Revenue Thresholds Taken into Account for the HIPF[9]

Dollar Thresholds for Determining Premiums Taken Into Account	
Net Premiums Written	**Percentage Taken Into Account**
Not More Than $25 Million	0%
$25 Million - $50 Million	50%
More Than $50 Million	100%

As stated in the introduction, nearly 80 percent of MassHealth payments to Managed Care Entities are paid to non-profit insurers and 61.9 percent of these payments go to insurers that qualify for this exemption from the HIPF. Only 51 percent of all premiums are subject to the HIPF.[i]

A potential consequence of this exemption is that it will alter the competition between for-profit and non-profit insurers. The concern is that states will be more inclined to choose non-profit insurers for Medicaid contracts that are not required to pay the HIPF, saving states some money in the short-run, but putting for-profit insurers at a disadvantage and limiting the choices and options available to enrollees. It could also deny states the cost advantage that comes from a level playing field with greater competition.

Including the HIPF in Medicaid Payments: The Actuarial Soundness Requirement and CMS

When the ACA was passed, it was unclear how the insurer fee would affect states. For some time, the Centers for Medicare and Medicaid Services (CMS) issued no official guidelines as to whether states were required to cover the ACA insurer fee, nor was it explicit in the ACA. However, a conventional wisdom soon emerged that states would be expected to cover the HIPF based on an existing law.

The 1997 Balanced Budget Act requires Medicaid plan rates to be "actuarially sound," meaning they must be reviewed by an actuary[11] to ensure that the premiums paid to Medicaid plans are expected to match the health risks of the population. In other words, plans have enough money to properly care for enrollees and pay for the administrative costs of running the plan.

In order to be "actuarially sound," tax exposure must be included in calculating premium rates.[12] In practice, this means that most states and the federal government have allowed MCEs to include the ACA insurer fee as part of the capitation payments in their contracts. Furthermore, since the HIPF is an excise tax,[13] some claim that states are also responsible for covering the ACA insurer fee's income tax liability.

i. See Appendix Figures I and II

In 2014, CMS confirmed state responsibility for the HIPF in an FAQ, stating CMS "believes the health insurance provider fee is a reasonable business cost to health plans that is appropriate for consideration as part of the non-benefit component of the rate, just as are other taxes and fees."[14] This seemingly ended the debate, resulting in the HIPF's inclusion in Medicaid capitation rates.

A Self-Imposed Tax

There are a number of predictions and projections on how the HIPF tax will affect the national health insurance market and affect state Medicaid payments. For example, a report from Milliman,[15] an actuarial consulting firm, titled "ACA Health Insurer Fee Estimated Impact on State Medicaid Programs and Medicaid Health Plans," projects that over the first ten years the HIPF is in place, states will collectively pay between $13.3 and $13.9 billion to the federal government to cover the fee.[16] This is a direct result of the HIPF being included and paid for in the Medicaid Managed Care payments made by the states. Below, Figure 3 demonstrates the funding mechanisms related to HIPF payments.

Because Medicaid is financed through a combination of state and federal funding, the government is effectively collecting the HIPF from itself and the states. The net effect is that MCEs are required to pay nothing extra, while states pay for a portion of the tax and the federal government pays for the rest. Since it is a federal tax, all revenue goes to the federal government, essentially reducing the ACA insurer fee to a tax on states, not MCEs, with states facing higher Medicaid Managed Care payments or additional reimbursement payments.[17] The result is that states are partially funding the ACA through this fee.

The ACA Insurer Fee's Effect on Massachusetts

Recent Changes to the Law

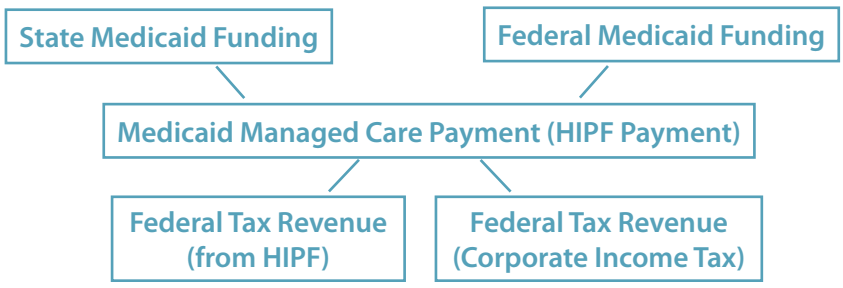
The recently passed Omnibus Appropriations Act made a change to the ACA that affects the HIPF provision.[18] The law suspends the collection of the fee for 2017, after which the tax is scheduled to be collected again starting in 2018. Therefore, Massachusetts will not have to cover this cost for one year in 2017, which this report accounted for when calculating the minimum ten-year cost of the tax in Massachusetts.

Impact of the Tax in Massachusetts

In Massachusetts, the state accepted responsibility for the HIPF. The law requires MassHealth to retroactively reimburse insurers for the HIPF and to include the fee's related tax liability.[19] It also requires MassHealth to report on the amount of the add-on reimbursement and the calculation method it uses to determine this value.

Pioneer reached out to MassHealth for data on the most recent HIPF calculation and payments. As previously mentioned, the HIPF applies to many MCEs, including MCO, SCO, PACE, and MBHP contracts. MassHealth calculated its HIPF reimbursement by using reports requested from contractors and validating this information using the Encounter data submitted monthly to the MassHealth

Figure 3. Funding Medicaid and the HIPF



data warehouse to determine how much of each insurer's national HIPF contribution came from MassHealth contracts. The amounts calculated below for MassHealth's HIPF payments include the fee as well as corresponding corporate income tax liability.[ii]

According to their data, MassHealth paid its MCEs a total of $36 million to cover the ACA insurer fee for Medicaid premiums in 2014. Since Medicaid is paid for by both states and the federal government, Massachusetts will be reimbursed for about 50 percent of this payment, resulting in a net cost to the Commonwealth of $18 million in taxpayer money for 2015.

This will have a significant impact over the next ten years. To look at the minimum cost to Massachusetts for the next decade, let's say that the HIPF is held at its current level nationally until 2025. Under that assumption, Massachusetts' contribution will remain at its 2015 value of $18 million (after the 50 percent federal Medicaid reimbursement) and the Commonwealth will pay $162 million to the federal government for the nine years the fee is collected from 2015 to 2025.[20] Since the HIPF is set to rise from $8 billion to $14.3 billion by 2018, the Commonwealth will almost certainly pay more than $162 million. In addition, Massachusetts residents will pay an equivalent amount in federal taxes that will fund the other 50 percent of the HIPF, resulting in a total cost of at least $324 million over the next decade.

Figure 4. MassHealth's Total HIPF Payments to Managed Care Entities for Calendar Year 2014[21]

Summary Table Health Insurer Provider Fee Calendar Year 2014	
MCE Contract	**Payment Amount**
MCO Contracts	$19,488,229
BH Contract	$14,156,199
SCO Contracts	$2,355,823
PACE Contracts	$32,923
Total All MCE's	**$36,033,174**

When compared to total MassHealth spending, this amount may seem small. MassHealth alone represented $15 billion in the state's fiscal year 2016 appropriation, the largest item in a total state budget of $38.1 billion.[22] However, to put it in perspective, Figure 5 shows that $18 million is more than the 2016 appropriations for nearly half of the Massachusetts community colleges.[23] This means the additional $18 million a year Massachusetts now pays for the HIPF has significant financial implications for the state.

Conclusion

One of the stated goals of the ACA is to expand insurance coverage. In order to do so, the law includes a number of revenue-raising mechanisms to fund the expansion. Inherent to this policy will be tradeoffs. While some will gain insurance coverage, the individuals and industries taxed will make adjustments to their behavior or mode of conducting business.

What is clear is that an unintended consequence of the ACA insurer fee is that states and the federal government are covering the fee instead of MCEs, making the HIPF a tax the government has imposed on itself and the states. Despite the intention behind the HIPF, the fee does not collect money from the large insurers profiting from Medicaid expansion, but instead from states and taxpayers already facing the costly burden of Medicaid.

The population impacted by Massachusetts' Medicaid expansion under the ACA may have been small relative to other states, but the tax implications are more significant. The HIPF presents Massachusetts with a net additional $18 million in Medicaid payments annually, a total that will likely exceed $162 million by 2025. Furthermore, overall, taxpayers will see twice that amount, at least $324 million, go to the federal government for the HIPF over the next decade. Massachusetts policymakers needs to be aware of these effects as the ACA continues to reshape and impact the Commonwealth.

ii. See Appendix Figure III

Figure 5. HIPF Cost versus State Funds for MA Community Colleges

Category	Cost
HIPF	**$18 million**
Berkshire Community College	**$9.8 million**
Bristol Community College	$18.3 million
Cape Cod Community College	**$13 million**
Greenfield Community College	**$9.7 million**
Holyoke Community College	$18.9 million
Massachusetts Bay Community College	**$14.9 million**
Massasoit Community College	$19.8 million
Mount Wachusett Community College	**$13.3. million**
Northern Essex Community College	$18.4 million
North Shore Community College	$20.1 million
Quinsigamond Community College	$18.4 million
Springfield Technical Community College	$23.7 million
Roxbury Community College	**$11.3 million**
Middlesex Community College	$20.6 million
Bunker Hill Community College	$21.9 million

Examples of past ACA-related research include the following and can be located at pioneerinstitute.org:

Josh Archambault and Sadat Donkor, "New ACA Medicare Payroll Tax Hits Massachusetts, $1.7 Billion Over 10 Years," September, 2013.

Josh Archambault and Xiaofei (Jackie) Zhou, "First Do No Harm 'The Impact of the Affordable Healthcare Act on Massachusetts' Medical Device Industry," April 12, 2013.

Josh Archambault, "Impact of the Federal Health Law's 'Cadillac Insurance Tax' in Massachusetts," October 5, 2012.

Josh Archambault, "ACA Premium Roller Coaster for Small Business Coming to Massachusetts," June 17, 2013.

Josh Archambault, "Massachusetts Connector Up to $180 Million for ACA Changes," January 18, 2013.

Josh Archambault, "$3.89 Billion in New Insurance Taxes Over 10 Years," December 6, 2012.

Josh Archambault, "$14B in Medicare Cuts under ACA for Massachusetts," September 12, 2012.

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Appendix

Figure I. Percent of MassHealth Capitation (Premium) Paid to Non-Profit and For-Profit Managed Care Entities

	Non-Profit Premium	For-Profit Premium	Total Premium	Percent Non-Profit
Total (All MassHealth Managed Care Entities)	$4,437,979,775	$1,163,451,803	$5,601,431,578	79.2%

Figure II. Percent of Non-Profit Premium that is Exempt from HIPF

	Non-Profit Premium that is Exempt from HIPF	Percent of Non-Profit that is Exempt	Percent of Total Premium that is Exempt from HIPF
Total (All MassHealth Managed Care Entities)	$2,746,169,996	61.9%	49.0%

Figure III. 2015 Health Insurer Provider Fee Paid by MassHealth Contracted Managed Care Entities Based On MassHealth Premium (Capitation) Paid in Calendar Year 2014

Plan Type	Total MassHealth Premiums	Taxable Premium Net of Long Term Care Exclusion for SCO and PACE	Total HIPF Paid	HIPF Fee as a Percent of Total Premium Paid by MassHealth Net of Long Term Care Exclusions
MCO	$4,127,632,841	$4,127,632,841	$19,488,230	0.47%
Behavioral Health	$469,297,124	$469,297,124	$14,156,199	2.93%
SCO Total	$873,064,584	$283,975,592	$2,355,823	0.82%
PACE Total	$131,437,030	$55,434,088	$32,923	0.06%
Total All Managed Care Entities	$5,601,431,578	$4,884,523,414	$36,033,174	**0.73%**

Endnotes

1. For the Senior Care Options (SCO) and Program for All Inclusive Care for the Elderly (PACE) 83% and 90% respectively is attributed to long-term care which is also excluded from the fee.
2. Managed Care Entities include MCOs, Behavioral Health (MBHP), SCOs and PACE Plans.
3. "Managed Care," *Centers for Medicare & Medicaid Services*, 2016, https://www.medicaid.gov/medicaid-chip-program-information/by-topics/delivery-systems/managed-care/managed-care-site.html.
4. Senior Care Options (SCO) is a "comprehensive" health plan that covers all of the services normally paid for through Medicare and MassHealth. It combines health services with social support services.
5. Program of All-inclusive Care for the Elderly (PACE) is administered by MassHealth and Medicare and provides a wide range of medical, social, recreational, and wellness services to eligible seniors. Its goal is to allow enrollees to live safely in their homes instead of in nursing homes.
6. An MBHP, or Massachusetts Behavioral Health Partnership, is a managed care entity that offers integrated medical and behavioral health care to eligible members of MassHealth.
7. John D. Meerschaert and Mathieu Doucet, "ACA Health Insurer Fee Estimated Impact on State Medicaid Programs and Medicaid Health Plans January 2014 Update," *Milliman, Inc.*, January 30, 2014, http://www.mhpa.org/_upload/Milliman%20Report%20-%20ACA%20Health%20Insurer%20Fee%20-%20Estimated%20Impact%20on%20Medicaid%20-%20January%202014%20Update.pdf.
8. "Affordable Care Act Provision 9010- Health Insurance Providers Fee," *Internal Revenue Service*, June 16, 2016, https://www.irs.gov/businesses/corporations/affordable-care-act-provision-9010.
9. John D. Meerschaert and Mathieu Doucet, "ACA Health Insurer Fee Estimated Impact on State Medicaid Programs and Medicaid Health Plans January 2014 Update," *Milliman, Inc.*, January 30, 2014, http://www.mhpa.org/_upload/Milliman%20Report%20-%20ACA%20Health%20Insurer%20Fee%20-%20Estimated%20Impact%20on%20Medicaid%20-%20January%202014%20Update.pdf.
10. Ibid.
11. An actuary is defined by the Society of Actuaries as "a business professional who analyzes the financial consequences of risk. Actuaries use mathematics, statistics and financial theory to study uncertain future events, especially those of concern to insurance and pension programs."
12. A Practice Note published by the American Academy of Actuaries in 2005 describes Medicaid premium rates as "actuarially sound" if they "provide for all reasonable, appropriate and attainable costs, including health benefits, health benefit settlement expenses, marketing and administrative expenses, any state-mandated assessments and taxes, and the cost of capital." Therefore, taxes are often included in the rates.
13. Section 9010 (a) of the ACA classifies the HIPF as an "excise tax," meaning it is not tax-deductible and therefore any money collected to cover the fee is subject to corporate income taxes.
14. "Medicaid and CHIP FAQs: Health Insurance Providers Fee for Medicaid Managed Care Plans," *Centers for Medicare & Medicaid Services*, October 2014, https://www.medicaid.gov/federal-policy-guidance/downloads/faq-10-06-2014.pdf.

15. Milliman, Inc. is a company that provides actuarial consulting services and research to clients that range from businesses to government to nonprofit organizations. The organization was hired to research the effect of the ACA Insurer Fee on insurers and states for the first 10 years.
16. John D. Meerschaert and Mathieu Doucet, "ACA Health Insurer Fee Estimated Impact on State Medicaid Programs and Medicaid Health Plans January 2014 Update," *Milliman, Inc.*, January 30, 2014, http://www.mhpa.org/_upload/Milliman%20Report%20-%20ACA%20Health%20Insurer%20Fee%20-%20Estimated%20Impact%20on%20Medicaid%20-%20January%202014%20Update.pdf.
17. Ibid.
18. "Overview of the Tax Provisions Included in Omnibus Appropriations Act," *Committee on Ways and Means*, 2015, http://waysandmeans.house.gov/wp-content/uploads/2015/12/One-Pager-on-Omnibus-Provisions-12.17.15.pdf.
19. c. 165 Acts of 2014, 4000-0300 can be found at https://malegislature.gov/Laws/SessionLaws/Acts/2014/Chapter165.
20. $18 million*9 = $162 million, when accounting for the moratorium in 2017.
21. This data was received from MassHealth.
22. "FY2016 General Appropriations Act Budget for MassHealth (Medicaid) and Health Reform Programs," *Massachusetts Medicaid Policy Institute*, August 2015, http://bluecrossmafoundation.org/sites/default/files/download/publication/FY-2016_GAA_Budget-Brief_v03.pdf.
23. "FY2015 Budget Summary," *Commonwealth of Massachusetts*, http://www.mass.gov/bb/gaa/fy2015/app_15/sect_15/h758.htm.

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