

**Technical corrections were made to this notice on September 6, 2016 by Revenue Notice # 16-04. Please see Revenue Notice # 16-04 for the corrected language.**

## **Department of Revenue**

### **Modification of Revenue Notice # 94-12**

#### **Revenue Notice # 94-12: MinnesotaCare – Who Is The Taxpayer?**

Under the MinnesotaCare law, a tax is imposed on the gross receipts received by hospitals, surgical centers, and health care providers for patient services they provide ("providers"). The tax liability is imposed on the entity that has the legal right to these receipts. Generally, this means that the entity receiving the payment for the services from the patient or third party payer is the taxpayer.

When the provider who receives payment from the patient or third party payer reimburses another provider for patient services provided, the first provider pays the tax and the payment to the second provider is excluded from the second provider's taxable revenues under *Minnesota Statutes*, section 295.53, subdivision 1(a)(3) and (4) since each transaction is subject to tax only once (i.e., there is no pyramiding of the tax).

It is **NOT** up to the providers to choose whether the first or second provider will pay the tax. Even if a contract between the two providers states that the second provider is responsible for the tax and the first provider will reimburse the second provider for the expense of the tax, it is the department's position that the first provider is the party responsible for the tax. The only instances where the first provider receiving the payment is not responsible for the tax occur when one of the following conditions is met:

1. The entity receiving the payment (or its equivalent in services) from the patient or third party payer is not a hospital, surgical center or health care provider under *Minnesota Statutes*, section 295.50;
2. The entity receiving the payment from the patient or third party payer serves merely as a billing/collection agency. The receipts are taxable to the provider who is legally entitled to these receipts, not the entity that acts as an agent, even if that entity is a provider. The provider who is legally entitled to the receipts is the provider who bears the risk of loss in case payment for the service is not collected; or
3. The payments received by the first provider are excluded from tax under *Minnesota Statutes*, section 295.53, subdivision 1(a), items (1) through (14), or subdivision 2, item (1).

#### **Providers That Are Part Of A Larger Corporate Entity**

Health care providers, defined under *Minnesota Statutes*, section 295.50, subdivision 4, that are part of a larger legal entity are responsible for payment of the tax, similar to the way the entity pays its other business taxes (e.g., if the provider pays the payroll withholding taxes as a corporate entity, it is required to pay the MinnesotaCare tax as a corporation; if each facility pays its withholding tax separately, the facility is required to pay the MinnesotaCare tax separately). Hospitals and surgical centers that are part of a larger business entity report and pay separately (e.g. each hospital pays the tax independently).

## Payments For Administrative Services

Gross revenues received for patient services include the total payments collected as a result of the sale of such services. The tax on payments for patient services includes payments for administrative services such as:

- Payments for administrative services that are made separately from payment for patient services;
- Payments for administrative services received by a provider who provides patient services as well as refers patients to other providers; and
- Payments for administrative services, even when some of the patient services provided by the entity are exempt from tax.

When an entity is both a provider and a third party administrator licensed under *Minnesota Statutes*, section 60A.23, subdivision 8 (3), payments the entity receives for the services it provides in its capacity as a third party administrator are not subject to tax.

Gross revenues for patient services do not include payments for unrelated services, such as gift shop, parking lot, or cafeteria.

### Examples

1. Provider A receives capitation payments from an insurer. These payments are for patient services provided by Provider A as well as for patient services provided by Provider B who is under contract with Provider A to provide patient services. Provider A compensates Provider B for patient services provided and retains a portion of the payment as payment for the administrative services Provider A provided. Under the contract, Provider A reimburses Provider B for the expense of the tax and Provider B is required to pay the MinnesotaCare tax. Provider A is not licensed as a third party administrator.

Provider A is responsible for the tax on the total amount received from the insurer and Provider B may exclude from its taxable receipts the payments received from Provider A.

2. A referral agency that does not employ providers, contracts with an insurance company to provide patient services to its enrollees. The agency contracts with a physician to provide these patient services.

The referral agency is not responsible for the tax since it does not qualify as a provider. The physician is responsible for the tax on the amount received from the referral agency.

3. A nurse is employed by a clinic and provides patient services to the clinic's patients.

The clinic is the taxpayer since it has the legal right to these payments.

4. A college employs health care providers who provide patient services to the students. The college also contracts with an outside lab to provide lab services to the students. The students pay the college, and the lab bills the college for the services it provides.

The college is the taxpayer since it is a health care provider providing patient services; the lab may exclude the payment from the college from its taxable receipts.

5. An employer provides patient services to its employees by contracting with an outside clinic to provide the services. The employer does not employ any health care providers who provide patient services.

The clinic is the taxpayer since the employer does not meet the definition of a health care provider.

6. A physician works at a hospital on weekends as an independent contractor. The hospital pays the physician regardless of whether the patients pay for the physician's services.

The hospital is the taxpayer. The physician may exclude the payment from the hospital from her taxable receipts.

7. A staff model HMO contracts with a physician to provide services to enrollees of the HMO.

Under the law, staff model HMOs may deduct payments to providers that are not employed by the HMO. The physician is responsible for payment of the tax.

8. A provider receives payments under the Medicare program as well as payments from another insurance company for patient services and for administrative services. The provider is not licensed as a third party administrator.

The payments received under the Medicare program are exempt. All other payments are taxable. The provider is not allowed to deduct any portion of the payment received from the insurance company for administrative services since the payment under the Medicare program reimburses the provider for both the patient service component as well as the administrative service component of the Medicare service provided.

9. A billing agency collects payments for patient services provided by a physician; the agency deducts an administrative fee before transferring the payment to the physician.

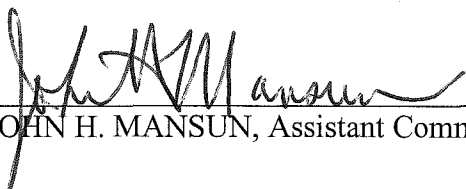
The physician is responsible for payment of the tax on the total amount received by the billing agency, including the administrative fee that is kept by the agency.

10. An ambulance service transports a patient to the hospital; the hospital treats the patient; it bills the patient for its service and, according to an agreement with the ambulance service, it bills the patient for the ambulance services as well. The hospital reimburses the ambulance service only if the patient pays for the service (i.e., the ambulance service bears the risk of loss of the payment if the patient does not pay for the ambulance services).

The ambulance is the taxpayer for the portion of payment that represents the ambulance service; the payment for the services provided by the hospital is taxable to the hospital.

NOV 8 2004

Publication Date: \_\_\_\_\_

  
\_\_\_\_\_  
JOHN H. MANSUN, Assistant Commissioner