

Massachusetts Coalition for **coverage&care**

July 14, 2025

Robert F. Kennedy, Jr., Secretary
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 509F
200 Independence Avenue SW
Washington, D.C. 20201

Dr. Mehmet Oz, Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
P.O. Box 8010
Baltimore, MD 21244-8010

Re: Comments on Proposed Rule, Medicaid Program; Preserving Medicaid Funding for Vulnerable Populations—Closing a Health Care-Related Tax Loophole Proposed Rule (CMS-2448-P)

Dear Secretary Kennedy and Administrator Oz:

Thank you for the opportunity to comment on the *Medicaid Program; Preserving Medicaid Funding for Vulnerable Populations—Closing a Health Care-Related Tax Loophole* proposed rule issued by the Department of Health and Human Services and the Centers for Medicare and Medicaid (collectively referred to here as CMS) on May 15, 2025 (Proposed Rule). The undersigned organizations are all members of the Massachusetts Coalition for Coverage and Care, a broad coalition of organizations representing hospitals, doctors, health centers, behavioral health providers, social services, consumers, business, labor, faith-based groups and communities committed to protecting the gains to health coverage, access to care and health equity in Massachusetts.

MassHealth covers over 2 million low income individuals and families, including over 40% of children and 60% of people with disabilities in Massachusetts. The program is also a key payer for hospitals, health centers, behavioral health clinics and long term care providers, and it is an important economic driver in the state. We share the goal of transparency in health care financing, however, the proposed rule may create fiscal and programmatic challenges for states and providers with potential consequences for access to care.

We request that CMS amend the rule to account for the following:

- **Transition Period:** We urge CMS to lengthen the proposed transition period to three years and apply it to all states with approved health care-related tax waivers that would be deemed non-compliant under this proposed rule, irrespective of the waiver's approval date. Denying a transition period to states with waivers approved within the last two years is arbitrary and does not recognize the significant operational challenges of enacting such a change. Rushed implementation may cause substantial disruption to state budgets, funding for essential Medicaid services and the providers who provide these services. Treating states differently based upon the date of the approved waiver does not advance CMS's outlined policy goals.
- **Legitimate Policy Goals:** In the preamble, CMS states that provider taxes that treat some providers differently would continue to be permissible if they seek to design tax rate groups to achieve legitimate public policy goals. We are concerned that criteria for what constitute a "legitimate public policy goal" in the rule itself are vague and introduce a level of subjectivity that may result in inconsistent and arbitrary treatment across states. The preamble states that such policies include imposing a different tax rate on community hospitals or rural hospitals. However, there may be other situations in which a state may impose different tax levels. For example, states may seek to apply lower taxes on safety net hospitals that treat a higher volume of low-income, uninsured, and underinsured individuals or providers that treat certain historically underserved conditions such as behavioral health. It is important for the rule to provide sufficient leeway for states to implement certain provider taxes that seek to achieve a legitimate health-related public policy goal without the need to comply with the new limitations.

Generally, we request that CMS specify and clarify the process and criteria by which states will be judged regarding compliance with this rule and afford states the opportunity to defend their existing or proposed health care tax structure. Thank you for your consideration of these issues and for the opportunity to comment on the proposed rule.

Sincerely,

1199SEIU – Massachusetts
Association for Behavioral Healthcare
Boston Center for Independent Living
Boston Medical Center Health System
Center for Health Law and Policy Innovation
Children's League of Massachusetts
Community Care Cooperative
Community Servings
Fenway Health
Greater Boston Interfaith Organization

Health Care For All - Massachusetts
Health Law Advocates, Inc.
La Comunidad, Inc.
Massachusetts Aging Access
Massachusetts Association for Mental Health
Massachusetts Health & Hospital Association
Massachusetts Immigrant and Refugee Advocacy Coalition
Massachusetts Law Reform Institute
Massachusetts Medical Society
Massachusetts Public Health Alliance
Massachusetts Senior Action Council
Massachusetts Society for the Prevention of Cruelty to Children
Olive in July, Inc.
Open Sky Community Services
Parent/Professional Advocacy League, Inc.
Refuge & Relief Mission
Suffolk University's Health Law Clinic
The Arc of Massachusetts
Vinfen