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MIA Bulletin 05 – 1
Premium Taxation of Health Maintenance Organizations

The purpose of this Bulletin is to address certain issues relating to the application of legislation enacted by the General Assembly on January 11, 2005, which subjects health maintenance organizations (HMOs) and managed care organizations (MCOs) to a 2% premium tax effective January 1, 2005.

The tax applies to capitation payments, supplemental payments, and bonus payments made to MCOs on or after January 1, 2005, as well as to subscription charges or other amounts paid to HMOs on or after January 1, 2005. Hence, the tax applies not only to contracts and renewals issued after January 1, 2005, but to payments made and charges paid after January 1, 2005 on contracts in-force as of January 1, 2005. Federal law, however, prohibits the imposition of the premium tax on certain payments made and charges paid in connection with contracts issued under the Federal Employees Health Benefit Plan (see 5 U.S.C. § 8909(f)) or under Medicare (see 42 C.F.R. § 422.404).

Maryland law neither requires nor prohibits an HMO that is subject to the 2% premium tax from passing the tax and the costs associated with the collection, calculation, and payment of the tax on to contract holders. HMO's that intend to pass the tax and its associated costs on to contract holders must, however, do so in conformity with the terms of their existing contracts and with Maryland State and federal law. To the extent that contract terms or applicable law prohibits the mid-term increase in charges, the newly imposed tax may not be passed on to in-force contracts until the next renewal date.

In addition, existing Code of Maryland Regulation, COMAR 31.12.02.04 (H), requires that: "Each individual contract and group contract shall provide that notice of any increase in charges shall be given to the contract holder by the HMO at least 45 days before the change in rate is proposed to become effective." Thus, for example, for allowable premium changes that are intended to be effective April 1, notice must be given to the contract holder no later than February 15.

Any HMO that intends to adjust its rates to reflect the premium tax expense may utilize the following filing procedures. The MIA believes that these recommendations will facilitate disclosure to the contract holders and the HMO's ability to efficiently adjust charges for the premium tax expense, while maintaining compliance with existing statutory filing requirements.

- (1) HMOs that intend to pass through the 2% tax by increasing the premium subject to the tax by a flat 2% may do so by filing with the MIA a letter articulating the HMO's intent to impose a flat 2% increase on all such premium. The letter submitted to the MIA will constitute the rate filing, which will be deemed approved upon receipt by the MIA. Thus, for example, if the

current approved monthly billed premium for a given contract is \$2000, the HMO may increase that monthly billed premium to \$2040 and may proceed with the implementation process as soon as it has notified the MIA in writing of its intent to so increase its premiums.

- (2) Any HMO that proceeds to increase rates in the above fashion, must then file with the MIA by May 1, 2005, for informational purposes, all rates for policies and riders that have been increased by the straightforward 2% rate adjustment as noted above.
- (3) Any HMO that intends to modify its rates by a means other than the straightforward 2% rate adjustment noted above, must file new rates for MIA approval through the customary prior approval process before implementing higher premium charges for its HMO contract holders.
- (4) An HMO may not pass through to contract holders the premium tax applicable to charges paid by that contract holder to the HMO prior to the effective date of the rate change set forth in the 45-day notice. Thus, an HMO that, by February 15, 2005, gives notice of its intent to increase its charges by 2% effective April 1, 2005, may only apply the increase prospectively from April 1, 2005 and may not bill the contract holder for the 2% tax imposed on the HMO in January, February or March, 2005.

Questions relating to the rate filing methodology addressed in this is Bulletin may be addressed to Don Brandenburg - Chief Actuary @ 410-468-2040 and/or Elizabeth Hale - Life & Health Actuary @ 410-468-2041. Questions relating to the scope, calculation and payment of the premium tax may be addressed to Lester C. Schott, Associate Commissioner of Auditing and Examination, @ 410-468-2119.

Alfred W. Redmer, Jr.
Insurance Commissioner