

Creating the Safety Net Assessment to Fund Services for People with Developmental Disabilities

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Washington state is currently facing a budget shortfall of billions of dollars. In spite of holding a special session this past fall, lawmakers failed to solve the budget deficit. Many social services are facing either significant funding cuts or no appreciable increase in state-paid reimbursement levels.

Two bills, HB 1337 and SB 5465, were introduced in last year's regular legislative session and are still alive for the 2012 session.¹ If they become law, operators of homes for the disabled would have to pay a new 5.029% public utility tax. These funds (or at least 80.5% of them) would then be passed on to the caregivers of the disabled as increased wages. The entire funding of the disability-provider industry is through Medicaid.

The bills would:

- Impose a public utility tax at a rate of 5.029% on community residential service businesses.
- Use 80.5% of the revenue from this tax to provide for developmental disability community residential vendor rates and to increase the salaries of staff providing habilitative instruction and support services.
- Require differential rates for King and Snohomish counties to remain the same.
- Increase federal matching funds into the Washington state Medicaid program.

Background

Medicaid began in 1965 as a safety-net health insurance program for children of poor families, a funding mechanism for long-term care for the poor and a program to care for the mentally and physically disabled. The cost of Medicaid is shared between federal and state governments, with poorer states receiving a higher percent of federal funds. Medicaid is now the fastest growing line item in almost every state, consumes 23% of the average state budget, and is one of the top two or three most costly programs in every state.²

Since the 1990s, state lawmakers have engaged in a budget shell game so they can get more federal money. They tax medical providers such as hospitals, doctors, nursing facilities and managed care organizations. These state taxes are then returned to the providers in the form of higher Medicaid reimbursements. The higher provider payments increase the overall amount of money a

¹ Washington State Legislature Bill Information at <http://apps.leg.wa.gov/billinfo/summary.aspx?bill=1337&year=2011>.

² For a full review of the Medicaid program please see "A Review of the Medicaid Program" by Roger Stark, MD, available at <http://www.washingtonpolicy.org/publications/brief/review-medicaid-program>.

state places in its Medicaid program. The result is an increase in automatic federal matching funds, which a state can then spend on general programs.³

Provider taxes are an abuse of the Medicaid program, although they are not specifically fraudulent. In fact, historically, the federal government had encouraged states to use these taxes as a method of expanding Medicaid. Many states took advantage of the matching funds and exploited the provider tax scheme. Over the past few years, the federal government has reversed course by taking a hard line on new provider taxes and has disallowed them in at least four states, but not Washington.

SB 5465 and HB 1337 avoid the provider tax issue by simply raising taxes on the disabled residential facilities through the public utility tax. Of course, the shell game remains the same – increase state Medicaid spending and acquire more federal matching funds.

An accompanying bill, HB 2150, was introduced during the 2011 special session. This bill adds an emergency activation clause to HB 1337. HB 2150 also abolishes the public utility tax on community residential service businesses if federal matching funds are not available. The remainder of HB 1337 would stay the same.

Policy Analysis

The provider tax issue is bad public policy. It forces a tax on businesses that provide care to the disabled. The state then returns this tax as higher wages for employees. These accounting tricks would be perverse, convoluted and probably illegal in private business. The free market sets the wages for a private industry and businesses pay according to what the market dictates. Government cannot and should not tax a business and then return that revenue to employees as higher wages.

The disabled-provider industry, however, is totally financed and controlled by the government through Medicaid. These businesses are at the mercy of government officials for their existence and consequently they must abide by the rules the legislature places upon them.

Federal taxpayers would be the real losers with this legislation. States should not balance their budgets with higher federal-dollar matches through Medicaid. If state officials face budget problems, they should reduce expenditures rather than add a new tax designed to game federal dollars.

Federal taxpayers are also state taxpayers. Consequently, Washington state taxpayers are ultimately paying for any expansion of Medicaid.

Matching funds from the federal government are subject to changes in the political environment. States have no guarantee that increasing their Medicaid expenses will result in an increase in funds from the federal government. This places another potential burden on state taxpayers.

An increase or new application of the public utility tax requires a two thirds vote of the legislature. Hence, the bar to the passage of this legislation is higher than a simple majority vote.

Limited public safety-net programs will always be needed to provide health care for the poor. However, state officials' use of financial schemes to exploit an important federal program to pay

³ A full review of state abuse of the Medicaid program can be found at "State Abuse of the Medicaid Program," by Roger Stark, MD and Colin Swanson at <http://www.washingtonpolicy.org/publications/brief/state-abuse-medicaid-program>.

for expanding Washington's Medicaid program, demonstrates one reason Medicaid is the fastest growing line item for every state budget.

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