

# Long-Term Care Facility Assessment

## Frequently Asked Questions - October 9, 2003

The 2003 Oregon Legislature enacted House Bill 2747 into law. House Bill 2747 charges assessment fees to some health care providers to help fund the cost of the Oregon Health Plan and nursing facility care for people who receive state assistance.

This fact sheet discusses the nursing facility assessment fee. The fee was supported by both the Oregon Health Care Association and by the Oregon Association of Senior and Health Services, the nursing facility trade organizations. Oregon has 143 licensed nursing facilities, of which 133 care for people who receive state assistance.

### **1. What is the Long Term Care Facility Assessment?**

The Long-Term Care Facility Assessment is a tax that will be paid by almost every nursing facility in the state. Each nursing facility will pay a tax based on its total number of occupied bed days in a calendar quarter. To determine the total number of occupied bed days in a quarter, the nursing facility will add up the number of residents in the facility each day at 12:01 am. The number of bed days is equal to the sum of all residents for every day they were in the facility within the quarter.

The Long-Term Care Facility Assessment does not apply to assisted living facilities, residential care facilities, adult foster homes or group homes.

Nursing facility residents are not subject to the tax – only nursing facilities themselves will be taxed.

### **2. What is the effective date of the tax?**

The tax will be effective retroactive to July 1, 2003.

### **3. When will nursing facilities have to make their first payment?**

The first payment will be due 30 days after the receipt of all required CMS approvals.

### **4. What will the tax be used for?**

By law, most of the revenue collected through the tax will be used to increase Medicaid payments to nursing facilities for resident care. The law also provides

that \$12.5 million of tax revenue will be deposited into the State general fund to be used as the Legislature determines.

**5. When can nursing facilities expect to receive the new reimbursement rate payment?**

Both the rate increase and the retroactive payment are contingent on CMS approval of a State Plan Amendment. DHS has asked CMS to approve retroactive payments from July 1, 2003 forward. Retroactive payments will be made after DHS receives the required approval.

**6. Which nursing facilities won't pay the tax?**

The law that created the tax (2003 House Bill 2747) exempts the Oregon's Veterans Home in The Dalles from payment of the tax.

The law also directs the Oregon Department of Human Services (DHS) to ask the federal Centers for Medicare and Medicaid Services (CMS) to exempt two types of nursing facilities from the tax: (1) nursing facilities that are part of continuing care retirement communities (CCRCs); and (2) nursing facilities in which a very high percentage of the residents are Medicaid clients. DHS has requested such a waiver from CMS.

The tax will go into effect whether or not the waiver is approved. If the waiver is not approved, CCRCs and nursing facilities with a high percentage of Medicaid clients will be taxed.

**7. How much is the tax?**

While the state waits for waiver approval, the tax will be \$8.25 per nursing facility patient day. If the waiver is approved, then the tax may increase to about \$8.85 per day. If the waiver is not approved, the state will determine the tax rate based on the cost reports for the period ending 6/30/03. In either case, the tax is expected to raise about \$56 million during the 2003 – 2005 biennium. The tax will also allow the state to claim about \$70 million additional dollars from the Federal government.

**8. Is the tax based on licensed beds or occupied beds?**

The tax applies only to occupied beds.

**9. Are Medicare days taxed?**

All patient days are subject to the tax. This includes days that are paid for through Medicare, Medicaid, long-term care insurance and/or any other public or private payment source.

**10. What will the new Medicaid reimbursement rate per day be?**

The new basic Medicaid reimbursement rate to nursing facilities will be \$136.88 per Medicaid resident day. The rate before the tax was \$111.35 per day.

**11. If the tax rate is retroactive to July 2003, our audit firm has indicated that we need to begin to accrue both the cost and the revenue for each month. Does the state concur?**

The State cannot provide audit advice.

**12. If the tax is retroactive to July 2003 and nursing facilities will not owe the first tax payment until mid-2004, can nursing facilities now start increasing rates paid by residents in order to pay the multi-month lump sum that will be owed once the tax is operative?**

Nursing facilities can increase the rates that they charge their private pay residents at any time after the issuance of proper notice (Oregon Administrative Rule 411-085-0320(2)).

**13. Will a nursing facility owe the tax if it closes its beds prior to the first billing?**

The law became effective November 28, 2003. The retroactive assessment became effective that day, although a payment is not due until the tax is implemented. If a facility closed some (but not all) of its beds before November 28, 2003, only the beds that were closed are exempt.