Keenan

BRIEFING

JULY | 2023

IMPACT OF CALIFORNIA'S REIMPOSED MCO TAX ON EMPLOYER-PROVIDED GROUP HEALTH PLANS

Two of the budget bills recently agreed upon by the California legislature and Governor Gavin Newsom have the potential to affect employer-provided group health plans.

On June 29, 2023, Governor Newsom signed into law AB 119 (Chapter 13, Statutes of 2023), a budget trailer bill that will temporarily re-impose a tax on managed care organizations operating in California from April 1, 2023, through December 31, 2026. The so-called "MCO tax," had originally taken effect in 2009 and expired in 2012, but has been renewed and changed in the years since. The most recent MCO tax, which was passed in 2016, expired at the end of 2022. While it was in effect, it resulted in approximately $1.5 billion of annual state revenue and a stable funding source for the Medi-Cal program.

While the tax is to be paid by the carriers, it will be calculated based on the number of enrollees in each plan. Specifically, the rate of the re-imposed tax will be tiered based on 2022 enrollment levels, with one set of enrollment tiers applied to Medi-Cal enrollees and another set of enrollment tiers based on other managed care enrollees, as set forth in the table below.

Fiscal Year	Medi-Cal Tier 1 (Enrollment less than 1,250,000)	Medi-Cal Tier 2 (Enrollment 1,250,001-4,000,000)	Medi-Cal Tier 3 (Enrollment more than 4,000,000)	Other Tier 1 (Enrollment less than 1,250,000)	Other Tier 2 (Enrollment 1,250-001-4,000,000)	Other Tier 3 (Enrollment more than 4,000,000)
2023-24	$0.00	$182.50	$0.00	$0.00	$1.75	$0.00
2024-25	$0.00	$182.50	$0.00	$0.00	$1.75	$0.00
2025-26	$0.00	$187.50	$0.00	$0.00	$2.00	$0.00
2026-27	$0.00	$192.50	$0.00	$0.00	$2.25	$0.00

According to the Assembly Budget Committee, the renewal of this tax would raise approximately $32.3 billion over four years. Of that, approximately $12.9 billion would go back to Medi-Cal managed care plans in the form of capitation rates paid by the state, leaving $19.4 billion as the state's net benefit. $8.3 billion of that would be allocated to address the state's budget deficit in 2023-2024 and subsequent years. The remaining $11.1 billion would go into a Medi-Cal Provider Payment Reserve Fund, which would fund reimbursement rate increases, support for financially distressed hospitals, assistance with seismic compliance for small and rural hospitals, workforce development programs and other investments. According to the Department of Health Care Services (DHCS,) non-Medi-Cal plans would pay approximately $112.4 million over four years.

Some health insurers have already begun to include this tax in rates for California-based plans for 2024. According to the Kaiser Family Foundation (KFF), 17 states imposed a tax on MCO providers in 2022.

An additional trailer bill, AB 118, awaits the Governor's signature. AB 118 would commit $82.5 million in 2024 and up to $165 million annually thereafter to continue to fund state subsidies for California residents with household incomes at or below 600% of the federal poverty level who obtain coverage through Covered California, the state's Exchange. While subsidized coverage on the Exchange doesn't directly impact employer-provided health plans, the presence of an expanded subsidy makes it somewhat more likely that some employees will obtain coverage on the Exchange, thereby potentially exposing employers to penalties under the Affordable Care Act's employer mandate.
