CHAPTER 373

HEALTH CARE PROVIDER TAX

§2871. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2001, c. 714, Pt. CC, §3 (NEW); PL 2001, c. 714, Pt. CC, §8 (AFF).]

1. Annual gross patient services revenue. "Annual gross patient services revenue" means gross charges, excluding any grants, donations or research funding.
[PL 2001, c. 714, Pt. CC, §3 (NEW); PL 2001, c. 714, Pt. CC, §8 (AFF).]

2. Annual net operating revenue. "Annual net operating revenue" means gross charges less any amounts recorded as bad debts, charity care or payer discounts in accordance with generally accepted accounting principles.
[PL 2003, c. 467, §1 (AMD).]

3. Fiscal year.
[PL 2003, c. 467, §2 (RP).]

3-A. Facility fiscal year. "Facility fiscal year" means the fiscal year actually used by a person subject to this chapter in keeping that person's books and records.
[PL 2003, c. 467, §3 (NEW).]

3-B. Intermediate care facility for persons with intellectual disabilities. "Intermediate care facility for persons with intellectual disabilities" has the same meaning as in Title 34-B, section 1001, subsection 4-B.
[PL 2011, c. 542, Pt. A, §142 (NEW).]

4. Nursing home. "Nursing home" means a facility providing nursing facility services and licensed under Title 22, chapter 405 to provide nursing facility services.
[PL 2001, c. 714, Pt. CC, §3 (NEW); PL 2001, c. 714, Pt. CC, §8 (AFF).]

5. Nursing facility services. "Nursing facility services" means nursing care or rehabilitative services provided in a nursing home, by or under the direction of a physician, for the accommodation of convalescents or other persons who are not acutely ill and not in need of inpatient hospital care, but who do require skilled nursing care and related medical services.
[PL 2001, c. 714, Pt. CC, §3 (NEW); PL 2001, c. 714, Pt. CC, §8 (AFF).]

6. Residential treatment facility. "Residential treatment facility" means an intermediate care facility for persons with intellectual disabilities, or a level I assisted living facility for persons with intellectual disabilities or autism, that falls within the definitions provided by the United States Social Security Act, 42 United States Code, Section 1396(d) and that provides services to individuals with developmental disabilities. "Residential treatment facility" also means a community-based facility that provides similar services to the developmentally disabled under a waiver granted pursuant to the United States Social Security Act, 42 United States Code, Section 1396n(c) to the extent permitted by federal law and regulations.
[PL 2011, c. 542, Pt. A, §143 (AMD).]

6-A. State fiscal year. "State fiscal year" means the uniform fiscal year established pursuant to Title 5, section 1501 for all financing and reporting of state government expenditures.
[PL 2003, c. 467, §4 (NEW).]

7. Taxable revenues. "Taxable revenues" means annual gross patient services revenue in the case of a residential treatment facility and annual net operating revenue in the case of a nursing home.

[PL 2001, c. 714, Pt. CC, §3 (NEW); PL 2001, c. 714, Pt. CC, §8 (AFF).]

SECTION HISTORY

PL 2001, c. 714, §CC3 (NEW). PL 2001, c. 714, §CC8 (AFF). PL 2003, c. 2, §GG1 (AMD). PL 2003, c. 2, §GG3 (AFF). PL 2003, c. 467, §§1-4 (AMD). PL 2011, c. 542, Pt. A, §§142, 143 (AMD).

§2872. Tax imposed; fiscal years beginning 2002

Beginning July 1, 2002, in addition to all other fees and taxes assessed or imposed by the Maine Revised Statutes, a tax is imposed annually against each residential treatment facility and nursing home located in the State and calculated as follows. [PL 2003, c. 467, §5 (RPR).]

1. Residential treatment facilities. The tax imposed on a residential treatment facility under this section is calculated as follows:

A. For the state fiscal year beginning July 1, 2002, the tax imposed against each residential treatment facility is equal to 6% of its annual gross patient services revenue for the state fiscal year; [PL 2003, c. 467, §5 (NEW).]

B. For facility fiscal years beginning on or after July 1, 2002 and before July 1, 2003, the tax imposed against each residential treatment facility in addition to the tax imposed pursuant to paragraph A is equal to 6% of its gross patient services revenue for that portion of the facility fiscal year occurring after June 30, 2003; [PL 2007, c. 539, Pt. X, §1 (AMD).]

C. For whole or partial facility fiscal years beginning on or after July 1, 2003 and before January 1, 2008, the tax imposed against each residential treatment facility is equal to 6% of its annual gross patient services revenue for the corresponding whole or partial facility fiscal year; [PL 2011, c. 411, §1 (AMD).]

D. For whole or partial facility fiscal years beginning on or after January 1, 2008 and before October 1, 2011, the tax imposed against each residential treatment facility is equal to 5.5% of its annual gross patient services revenue for the corresponding whole or partial facility fiscal year; and [PL 2011, c. 411, §2 (AMD).]

E. Beginning October 1, 2011 for any partial facility fiscal year and for whole facility fiscal years beginning on or after October 1, 2011, the tax imposed against each residential treatment facility is equal to 6% of its annual gross patient services revenue for the corresponding whole or partial facility fiscal year. [PL 2011, c. 411, §3 (NEW).]

[PL 2011, c. 411, §§1-3 (AMD).]

2. Nursing homes. The tax imposed on a nursing home under this section is calculated as follows:

A. For the state fiscal year beginning July 1, 2002, the tax imposed against each nursing home is equal to 6% of its annual net operating revenue for the state fiscal year; [PL 2003, c. 467, §5 (NEW).]

B. For facility fiscal years beginning on or after July 1, 2002 and before July 1, 2003, the tax imposed against each nursing home in addition to the tax imposed pursuant to paragraph A is equal to 6% of its net operating revenue for that portion of the facility fiscal year occurring after June 30, 2003; [PL 2007, c. 539, Pt. X, §2 (AMD).]

C. For whole or partial facility fiscal years beginning on or after July 1, 2003 and before January 1, 2008, the tax imposed against each nursing home is equal to 6% of its annual net operating revenue for the corresponding whole or partial facility fiscal year; [PL 2011, c. 411, §4 (AMD).]

D. For whole or partial facility fiscal years beginning on or after January 1, 2008 and before October 1, 2011, the tax imposed against each nursing home is equal to 5.5% of its annual net

operating revenue for the corresponding whole or partial facility fiscal year; and [PL 2011, c. 411, §5 (AMD).]

E. Beginning October 1, 2011 for any partial facility fiscal year and for whole facility fiscal years beginning on or after October 1, 2011, the tax imposed against each nursing home is equal to 6% of its annual net operating revenue for the corresponding whole or partial facility fiscal year. [PL 2011, c. 411, §6 (NEW).]

[PL 2011, c. 411, §§4-6 (AMD).]

The tax imposed by this section is an obligation of the provider pursuant to section 2873 and may not be billed to a patient as a separately stated charge. [PL 2003, c. 467, §5 (RPR).]

SECTION HISTORY

PL 2001, c. 714, §CC3 (NEW). PL 2001, c. 714, §CC8 (AFF). PL 2003, c. 467, §5 (RPR). PL 2007, c. 539, Pt. X, §§1, 2 (AMD). PL 2011, c. 411, §§1-6 (AMD).

§2873. Return and payment of tax; application of revenues

1. Payment of estimated tax liability. On or before the 15th day of each month, each person subject to the tax imposed by this chapter shall submit to the assessor a payment of an amount equal to 1/12 of the person's estimated tax liability for the entire current state fiscal year or facility fiscal year or, in the case of a facility taxed on the basis of a partial facility fiscal year after June 30, 2003, an amount equal to a fraction of the estimated liability in which the denominator is the number of months remaining in the facility fiscal year and the numerator is one. A person may estimate its tax liability for the current state fiscal year or facility fiscal year by applying the tax rates provided by section 2872 to the most recent state fiscal year or facility fiscal year for which a Medicaid cost report has been finally settled and is no longer open to audit adjustment or correction, as long as the fiscal year in question began no earlier than 3 years prior to the beginning of the current fiscal year; in the event that the information necessary to prepare this estimate is not available, an estimate may be prepared on the basis of the reconciliation return most recently submitted or, if the first such return has not yet been submitted, then on the basis of the revenues formally reported by the facility in accordance with generally accepted accounting principles. Regardless of the method used for preparing the estimate, the estimate may include adjustments to reflect changes in the number of licensed or certified beds or extraordinary changes in payment rates. Once a taxpayer has made its first monthly payment for a state fiscal year or facility fiscal year pursuant to this subsection, the monthly amount must remain fixed throughout the fiscal year unless the assessor authorizes a change. If the person's estimated annual tax liability as paid pursuant to this subsection does not equal the tax imposed on that person by section 2872, any adjustments necessary to reconcile the estimated tax with the correct tax amount must be made pursuant to subsection 2.

[PL 2019, c. 607, Pt. B, §6 (AMD).]

2. Reconciliation return required. On or before October 15, 2003 and on or before the 15th day of the 4th month following the end of each facility fiscal year ending after October 15, 2003, each person subject in that state fiscal year or facility fiscal year to the tax imposed by this chapter shall submit a reconciliation return on a form prescribed and furnished by the assessor. The reconciliation return must account for any adjustments necessary to reconcile the annual tax for a prior state fiscal year or facility fiscal year estimated pursuant to subsection 1 with the person's correct tax liability, and the person shall submit with the reconciliation return payment of any amount due for the prior state fiscal year or facility fiscal year or portion of any prior state fiscal year or facility fiscal year. The taxpayer may also claim on the reconciliation return a refund or credit for any overpayment of tax. The determination of amounts due or overpaid is calculated by comparing the tax originally estimated and paid in the prior state fiscal year or facility fiscal year or years with the tax imposed by section 2872 on taxable revenues accrued for that period, together with any audit adjustments or corrections of which the person has knowledge on or before the 15th day of the month immediately preceding the due date

of the return. The obligation to file a reconciliation return with respect to a particular state fiscal year or facility fiscal year continues until the relevant taxable revenues for that period have been finally determined and are no longer open to audit adjustment or correction and the person has reported those revenues on a reconciliation return.
[PL 2003, c. 467, §7 (RPR).]

3. Audit period to remain open; accrual of penalties and interest. Notwithstanding any other provision of law, the tax imposed against a person by section 2872 for any fiscal year remains open to audit and further assessment by the assessor until completion of the audit of the Medicaid cost report or reports for the fiscal year. Any underestimates of tax liability reported and paid pursuant to subsection 1 are subject to an assessment of interest at the rate provided in section 186 from the date or dates of underpayment until payment is made, unless the estimated tax liability was calculated in compliance with the standards provided in subsection 1, in which case no interest may accrue prior to the date on which the reconciliation return for the year is due. Any amount of tax that is reported on a reconciliation return required by subsection 2 but not paid at the time the reconciliation return is filed is subject to the accrual of interest as provided by section 186, as well as to any applicable provisions of section 187-B, including, without limitation, the penalty provided by section 187-B, subsection 2 for failure to pay a tax.
[PL 2003, c. 467, §8 (AMD).]

4. Application of revenues. Revenues derived by the tax imposed by this chapter must be credited to a General Fund suspense account. On the last day of each month, the State Controller shall make the following transfers:

A. All revenues received by the assessor during the month pursuant to this chapter from nursing homes net of refunds must be credited to the Nursing Facilities Other Special Revenue funds account in the Department of Health and Human Services. Beginning October 1, 2011, the revenues received in each fiscal year that result from the increase in the tax rate from 5.5% to 6% pursuant to section 2872, subsection 1, paragraph E must be applied first to reimburse nursing homes for the MaineCare portion of the increased tax expense, and all remaining revenue resulting from the increase must be applied to provide cost-of-living increases to MaineCare reimbursement to nursing homes and to medical and remedial private nonmedical institutions that are reimbursed room and board costs and certain other allowable costs under rules adopted by the Department of Health and Human Services. These rules must use a methodology that provides a cost-of-living increase that ensures that such nursing facilities and medical and remedial private nonmedical institutions receive a share of the revenues through MaineCare reimbursement of allowable costs; and [PL 2011, c. 411, §7 (AMD).]

B. All revenues received by the assessor during the month pursuant to this chapter from residential treatment facilities net of refunds must be credited to the Residential Treatment Facilities Assessment Other Special Revenue Funds account in the Department of Health and Human Services. Beginning October 1, 2011, a percentage equal to the State's annual Federal Medical Assistance percentage of the revenues generated by the increase in the tax rate from 5.5% to 6% received by the assessor during the month must be credited to an Other Special Revenue Funds account in the Department of Health and Human Services, Developmental Services Waiver - Supports program and all revenues credited to that account must be applied to providing services to individuals on the waiting list for the community support benefit provided under a federal 1915(c) waiver under the MaineCare Benefits Manual, Chapter II, Section 29. The balance must be credited to an Other Special Revenue Funds account in the Department of Health and Human Services, Medicaid Services - Developmental Services program. [PL 2021, c. 635, Pt. EE, §2 (AMD).]

Notwithstanding the provisions of Public Law 2007, chapter 240, Part X, section 2, Public Law 2009, chapter 213, Part SSSS, section 1 or any other provision of law, any available balances in the accounts under this subsection may not be transferred between accounts by financial order or otherwise. [PL 2021, c. 635, Pt. EE, §2 (AMD).]

SECTION HISTORY

PL 2001, c. 714, §CC3 (NEW). PL 2001, c. 714, §CC8 (AFF). PL 2003, c. 467, §§6-8 (AMD). PL 2003, c. 689, §§B6,7 (REV). PL 2011, c. 411, §7 (AMD). PL 2019, c. 607, Pt. B, §6 (AMD). PL 2021, c. 398, Pt. LL, §2 (AMD). PL 2021, c. 635, Pt. EE, §2 (AMD).

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