
FEHB Program Carrier Letter

All Carriers

U.S. Office of Personnel Management
Office of Insurance Programs

Letter No. 2000- 39

Date: August 25, 2000

Fee-for-service [33] Experience-rated HMO [35] Community-rated [36]

SUBJECT: MinnesotaCare Tax

This is to advise you of a recent change in the Minnesota statutes made by the 2000 session of the Minnesota legislature. While Federal law previously preempted the MinnesotaCare tax in regard to payments in behalf of FEHB enrollees, Minnesota State law now exempts payments for FEHB enrollees from the tax as well.

The amended statute exempts from the provider tax "...payments received under the Federal Employees Health Benefits Act, United States Code, title 5, section 8909(f), as amended by the Omnibus Reconciliation Act of 1990" ,2000 Minn. Sess. Law H.F. 4127, Ch. 490 Art. 9 § 3 subdivision 1(20); M.S.A. § 295.53. The legislation is effective for payments received on or after January 1, 2000. Prior to this legislative change, a decision by the Minnesota Tax Court upheld the preemption provisions of 5 U.S.C. §8909(f) as applicable to the MinnesotaCare Tax under the Supremacy Clause of the U.S. Constitution (HealthPartners, Inc. v. Commissioner of Revenue, No. 6925, March 4, 1999)(1999 WL 123289).

The Federal Employees Health Benefits Act (FEHBA), as codified and amended by the Omnibus Budget Reconciliation Act of 1990 at 5 U.S.C. §8909(f), provides that:

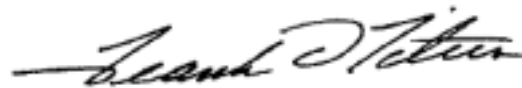
(1) No tax, fee, or other monetary payment may be imposed, directly or indirectly, on a carrier or an underwriting or plan administration subcontractor of an approved health benefits plan by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, with respect to any payment made from the [Employees Health Benefits] Fund.

(2) Paragraph (1) shall not be construed to exempt any carrier or underwriting or plan administration subcontractor of an approved health benefits plan from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by such carrier or underwriting or plan administration subcontractor from business conducted under this chapter, if that tax, fee, or payment is applicable to a broad range of business activities.

Minnesota providers may not impose the provider tax on carriers with respect to benefit payments made from the Fund, and carriers should no longer need to deduct the provider tax when calculating their payments to Minnesota hospitals and physicians. We encourage all participating carriers operating plans in the state of Minnesota to notify their providers that payments received under the Federal Employees Health Benefits Act are not subject to the provider tax.

If you have any questions concerning the preemption, please contact Abby L. Block, Chief, Insurance Policy and Information Division at (202) 606-0004 or alblock@opm.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank D. Titus". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Frank D. Titus
Assistant Director
for Insurance Programs