

July 2005

Re: Proposed Rules for New Jersey's Ambulatory Care Facility Tax Assessment

Dear Provider:

As you know, in June, 2004, a law went into effect which imposes a tax on the gross receipts of certain licensed ambulatory care facilities ("Covered Facility"). Although assessment of the tax has begun, the New Jersey Department of Health and Senior Services ("Department of Health") has just issued proposed rules concerning the collection of the tax assessment on Covered Facilities. Specifically, the proposed rules address the method for calculating the tax assessment, the procedures for payment of the tax assessment and the process by which a Covered Facility may appeal a tax assessment.

With respect to the calculation of the tax assessment, for New Jersey's 2005 fiscal year which began on July 1, 2004, a Covered Facility with at least \$300,000 in gross receipts in calendar year 2003 was required to submit an assessment of 3.5% of its gross receipts or \$200,000, whichever amount was less. For New Jersey's 2006 fiscal year which began on July 1, 2005, a Covered Facility with at least \$300,000 in gross receipts in calendar year 2004 must submit an assessment based upon a uniform gross receipts assessment rate that will be determined by the Commissioner of the Department of Health using the 2004 data that was required to be submitted by each Covered Facility to the Department of Health as part of an annual reporting requirement. Thereafter, beginning in New Jersey's 2007 fiscal year which will commence on July 1, 2006, a Covered Facility with at least \$300,000 in gross receipts, based upon the Covered Facility's annual report to the Department of Health, will be assessed a tax based upon the most recent annual report. In no instance will a Covered Facility be required to pay a tax in excess of \$200,000.

The annual tax assessments are due in four equal installments on the first day of October, January, March and June. A Covered Facility has a right to appeal an assessment. A request for an appeal must include the factual and legal bases for the challenge of the tax assessment. Appeals must be filed within 30 days of the issuance of a notice of a tax assessment.

The annual report each Covered Facility must submit to the Department of Health which provides the basis for the tax assessment is available for viewing online at www.state.nj.us/health/forms/hcgo-21.pdf. The information required in this report includes the total volume of patient visits, charges and gross receipts which must be broken down by payor type into the categories of Medicare fee-for-service, Medicare HMO, Medicaid fee-for-service, Medicaid HMO, commercial fee-for-service, commercial HMO, other government payors and self-pay. The Department of Health may randomly audit a selected Covered Facility's annual report for compliance and accuracy. Finally, a Covered Facility that fails to comply with the

regulations is subject to a civil penalty not to exceed \$500 per day for each day a Covered Facility is not in compliance with the regulations.

As part of the administrative review process, any member of the public is afforded the opportunity to send written comments about the proposed regulations to the Department of Health. All written comments must be received by the Department of Health by September 3, 2005. If you would like to submit written comments about the proposed regulations, you may send them to the following address:

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Health Care Quality and Oversight
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I hope this information is helpful to you. If you have any questions, please do not hesitate to contact me.