

State of Vermont

Department of Vermont Health Access

280 State Street, NOB 1 South

Waterbury, VT 05671-1010

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Agency of Human Services

MEMORANDUM

To: Health Reform Oversight Committee; House Committees on Health Care and on Ways and Means; Senate Committees on Health and Welfare and on Finance

From: Steven M. Costantino, Commissioner, Department of Vermont Health Access

CC: Monica Hutt, Commissioner, Department of Disabilities, Aging and Independent Living
Howard Pallotta, General Counsel, Department of Vermont Health Access
Tom Boyd, Deputy Commissioner of Health Care Reform, Department of Vermont Health Access

Date: December 13, 2016

Re: Act 134, Sec. 33 – Home Health Agency Assessment Working Group

This memorandum is in response to the legislature's request in Act 134, Section 33, that the Department of Vermont Health Access (DVHA) report on outcomes of a working group with home health agencies (HHAs) regarding an appropriate and equitable model for tax assessment.

Act 134, Sec. 33. HOME HEALTH AGENCY ASSESSMENT WORKING GROUP; REPORT

(a) It is the intent of the General Assembly to ensure that the home health agency assessment imposed pursuant to 33 V.S.A. § 1955a provide a sustainable funding source for home health agencies, to the extent permitted under federal law, while conforming to Vermont's health care system goals.

(b) The Department of Vermont Health Access shall convene a working group comprising nonprofit and for-profit home health agencies and other interested stakeholders to determine whether the home health agency assessment as amended in 3 V.S.A. § 1955a, in Sec. 32 of this act, represents the most appropriate and equitable model for the assessment, or whether additional changes to the methodology are needed.

(c) On or before December 15, 2016, the Department shall provide the results of the working group's meetings and any recommendations for rulemaking and statutory modifications to the Health Reform Oversight Committee, the House Committees on Health Care and on Ways and Means, and the Senate Committees on Health and Welfare and on Finance.

Updates from Working Groups

To address the request from the Vermont legislature, DVHA facilitated meetings comprised of representatives from DVHA and the Department of Disabilities, Aging and Independent Living (DAIL), as well as representatives from the Visiting Nurse Associations (VNAs) of Vermont and Bayada. Representatives from DVHA's legal and reimbursement team are facilitating the meetings.

The following information provides an overview of meetings, discussions with providers and work to date. As DVHA and DAIL continue discussions with home health providers, the departments will provide timely updates to the committees of jurisdiction.

- **September 23, 2016** - Howard Pallotta, General Counsel for DVHA, shared a proposed rule on home health agency assessment with the VNAs and Bayada. Providers were encouraged to comment on the rule and provide any comments or proposals on the tax model, in general.
- **October 3, 2016** – A meeting was held with representatives from DVHA, the VNAs of Vermont and Bayada. During this meeting, Howard Pallotta presented the proposed rule on home health assessment. Participants at the meeting commented on the proposed rule and discussed the current home health provider tax model.
 - Following this meeting, Bayada submitted written comments on the home health rule.
 - In mid-November the VNAs of Vermont provided a proposal for amendment to the home health provider tax to DVHA.
 - DVHA does not yet have a set date for pre-filing the proposed rule with the Inter-Agency Committee on Administrative Rule.
 - DVHA will continue discussing the provider tax proposal with the VNAs of Vermont and Bayada and will determine a timeline for filing the proposed rule with the Interagency Committee on Administrative Rules and Legislative Committee on Administrative Rules.

Over the course of the past year, providers asked DVHA to explain the reasoning behind the proposed rule. DVHA explained to the VNAs of Vermont and Bayada that the department wanted transparency regarding the way the tax would be calculated and assessed. Additionally, several providers asked questions regarding exclusions of income for calculation of the tax. DVHA explained that it would consider such deductions, but did not because federal law does not allow general exclusions of income from taxation if the state wants to match tax dollars for federal financial participation.

December 20, 2016 – During the course of the meetings with the VNAs of Vermont and Bayada, these providers requested time to meet with DVHA and DAIL regarding Medicaid funding for these providers. This meeting is scheduled with representatives from DVHA, DAIL, the VNAs of Vermont and Bayada on December 20, 2016 to discuss Medicaid funding and rates for home health services. Outcomes from this meeting will be

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