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July 2, 2025

Dr. Mehmet Oz
Administrator, Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Submitted electronically to www.regulations.gov

RE: Medicaid Program; Preserving Medicaid Funding for Vulnerable Populations—Closing a Health Care Related Tax Loophole Proposed Rule [CMS-2448-P]

Dear Dr. Oz,

The American Nurses Association (ANA) appreciates the opportunity to submit the following comments in response to the Centers for Medicare & Medicaid Services' (CMS') proposed rule targeting how certain Medicaid provider tax arrangements are reviewed and approved. ANA is concerned about the proposed provisions and their impact on states' ability to adequately finance their share of Medicaid expenditures, which is critical for a strong and stable Medicaid program.

ANA is the premier organization representing the interests of the nation's over 5 million registered nurses (RNs), through its state and constituent member associations, organizational affiliates, and individual members. ANA advances the nursing profession by fostering high standards of nursing practice, promoting a safe and ethical work environment, bolstering the health and wellness of nurses, and advocating for health care issues that affect nurses and the public. ANA members also include the four Advanced Practice Registered Nurse (APRN) roles: nurse practitioners (NPs), clinical nurse specialists (CNSs), certified nurse-midwives (CNMs), and certified registered nurse anesthetists (CRNAs). RNs serve in multiple direct care, care coordination, and administration leadership roles, across the full spectrum of healthcare settings. RNs provide and coordinate patient care, educate patients and the public about various health conditions including essential self-care, and provide advice and emotional support to patients and their family members.

While we recognize that most nurses are not directly impacted by provider tax arrangements, nurses are directly impacted by changes to the Medicaid program that affect their place of employment and patient access to care. Nurses are in critical roles across the health care delivery system and know firsthand the ripple effect on providers and patients when Medicaid funding is jeopardized. When states are unable to draw down the federal matching funds for approved outlays, they are unable to ensure that beneficiaries have access to covered services and that providers are reimbursed for those services.

Since the program's inception, funding the state share of the Medicaid program has evolved to strike a balance between appropriately resourcing the program against state budget constraints and limited state funds so that beneficiaries have access to needed care. Part of that evolution includes the use of provider taxes to draw down federal Medicaid matching funds. Provider tax

arrangements are not new—all but one state utilizes this longstanding mechanism to raise their share of Medicaid expenditures.[1] The concept was first introduced in the 1980s, and statutory and regulatory limits followed in the 1990s to provide guidance to states on their permissible use to draw matching funds.[2] Since then, states have relied on provider tax arrangements to safeguard stable funding for Medicaid expenditures for covered beneficiaries, especially in rural areas and long-term care facilities.

While we understand and support CMS' desire to ensure transparency and accountability in the Medicaid program, we are concerned that the provisions in the above-captioned rule will result in overly restricting a long-standing mechanism for states to fund their share of the Medicaid program. Making it harder for states to access their share of federal Medicaid funding will ultimately result in disrupting state Medicaid programs, reducing beneficiary access to essential services, and threatening the financial stability of healthcare providers. Nurses see firsthand how losing Medicaid coverage affects their patients, as well as how reduction in Medicaid funding impacts the nursing workforce and healthcare providers. In light of this, ANA appreciates the agency's thoughtful consideration of our comments.

1. **CMS must assess the true, current impact of the proposed rule on the Medicaid program and states.**

Currently, both Chambers of Congress are debating and working towards passage of budget reconciliation legislation that includes provisions related to the Medicaid program. Most recently, the U.S. House of Representatives passed a budget reconciliation package that includes a moratorium on all existing provider tax arrangements.[3] It is unclear at this time if that provision will be further expanded or included in the final version of the legislation. This uncertainty, coupled with the provisions of the proposed rule, will likely have a deeper impact on states than currently detailed in CMS' impact assessment. A true, complete assessment of the impact of the proposed provisions being debated in Congress must be considered before CMS implements additional changes to any state Medicaid financing arrangements. Assessing the provisions of this proposed rulemaking without taking other potential impacts into consideration will only result in destabilizing the Medicaid program and hindering the states' ability to provide coverage and services for beneficiaries. **As such, ANA urges CMS to wait to implement provisions in the final rule until an accurate assessment can be made of all current and potential federal changes to the Medicaid program.**

2. **CMS must allow adequate time for states to adjust existing provider tax arrangements.**

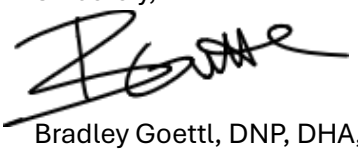
CMS proposes to deem provider tax arrangements approved more than two years ago impermissible under the provisions of the rule. If finalized, provider tax arrangements would have a one-year transition period to come into compliance. Provider tax arrangements that were approved within the last two years would have to come into compliance immediately. If finalized, ANA is concerned that states with arrangements deemed impermissible under the proposed provisions

[1] Congressional Research Service. Medicare Provider Taxes. December 30, 2024. https://www.congress.gov/crs-product/RS22843. Accessed June 2025.
[2] Ibid.
[3] U.S. Congress. (2025). *H.R. 1 – One Big Beautiful Bill Act*. https://www.congress.gov/bill/119th-congress/house-bill/1/text

will not have enough time to come into compliance within the proposed timeline. CMS itself seeks feedback in the rule whether the proposed timeline is sufficient, especially for states with biannual legislative sessions and offers some alternatives. CMS was right to consider timing and transition since states are not that nimble and need time to approve and make necessary changes to existing provider tax arrangements. Moreover, abrupt changes to existing Medicaid financing methods rob states of the ability to carefully plan for and mitigate any potential changes. However, all proposed options continue to overly restrict states with more recently approved arrangements. CMS instead must consider and adopt a uniform transition period for all arrangements, regardless of when they were approved. This is particularly important for states with limited legislative calendars, such as Texas and Nevada whose legislatures meet biannually. **In order for all states to adequately assess and restructure provider tax arrangements deemed impermissible, ANA urges CMS to allow all states a minimum two-year transition period to come into compliance.**

ANA appreciates the opportunity to submit these comments and looks forward to continued engagement with CMS on shared priorities. Please contact Tim Nanof, ANA's Executive Vice President, Policy & Government Affairs at (301) 628-5166 or tim.nanof@ana.org with any questions.

Sincerely,



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Angela Beddoe, ANA Chief Executive Officer