

MEYER, SUOZZI, ENGLISH & KLEIN, P.C.

COUNSELORS AT LAW
ONE COMMERCE PLAZA
SUITE 1705
ALBANY, NEW YORK 12260
518-465-5551
FACSIMILE: 518-465-2033
E-MAIL: meyersuozzi@msek.com
WEBSITE: <http://www.msek.com>

MEMORANDUM

TO: BALCONY Members
Labor Leaders
Fund Administrators

FROM: Richard Winsten

DATE: March 4, 2009

SUBJECT: TPA Tax, etc...

As you know, I have been working with many labor /management and other self insured union benefit funds to oppose the Third Party Administrator (TPA) Claims Handling Tax in the Governor's proposed 2009-10 budget.

The New York Health Plan Association was kind enough to share this material on the TPA and other various self insured benefit fund tax increases in this budget. Please share the material with interested BALCONY members.

attachments

Health Insurance Taxes on Self-Insured Employee Benefit Funds

Unprecedented Increase in Health Care Taxes

The 2009-2010 Executive Budget Proposal would place an unprecedented increase in tax burden for businesses and employee benefit funds that self-insure for health care costs in New York State. Currently, self-insured companies and health plans pay more than \$3.1B in various taxes on health insurance coverage.

How Taxes Affect Businesses that Self Insure for Health Care

In 1997, New York State began taxing the health policies of fully insured and self-insured businesses through a substantially revamped health care financing program called the Health Care Reform Act (HCRA). This law, as it was originally drafted, represented a carefully structured mechanism to tax health coverage to fund various health related programs such as the state's bad debt and charity care program and to fund graduate medical education (GME). In order to ensure a broad tax base to generate revenue, the law was carefully drafted to apply the taxes to self-insured employee benefit funds as well as those that purchase state-regulated, fully insured health insurance.

The covered lives assessment (CLA) is a tax on each covered life in a self-insured employee benefit fund. The chart on the right shows the dramatic increase in this tax — 73% since 2003.

In addition, employee benefit funds also must pay the patient services assessment (PSA), which is a tax on inpatient care and ambulatory surgery in article 28 facilities — essentially a "sick tax."

Deficit Reduction Package Dramatically Raises Taxes and Imposes a Large Portion Retroactively

The DRP raised the CLA by \$260M — \$140M for the 2008-2009 fiscal year and \$120M for the 2009-2010 fiscal year. For self-insured entities and insurers that have closed their books for 2008, the retroactive increase is a huge blow. In addition, employee benefit funds could not have accounted for the huge 2009-2010 costs also imposed by the DRP.

As the table on the reverse side shows, the annual amount self-insured plans will have to pay for each covered life has increased at least 30% in all regions of the state. This is an unprecedented increase and cannot be sustained by benefit funds already struggling in tough economic times.

More Taxes Yet to Come

While the increases in the covered lives assessment in the DRP are devastating to the bottom line, there are even more tax proposals still being considered as part of the main 2009-2010 budget.

- Tax Claims Processed by Third Party Administrators ("TPA Tax" — \$63M)

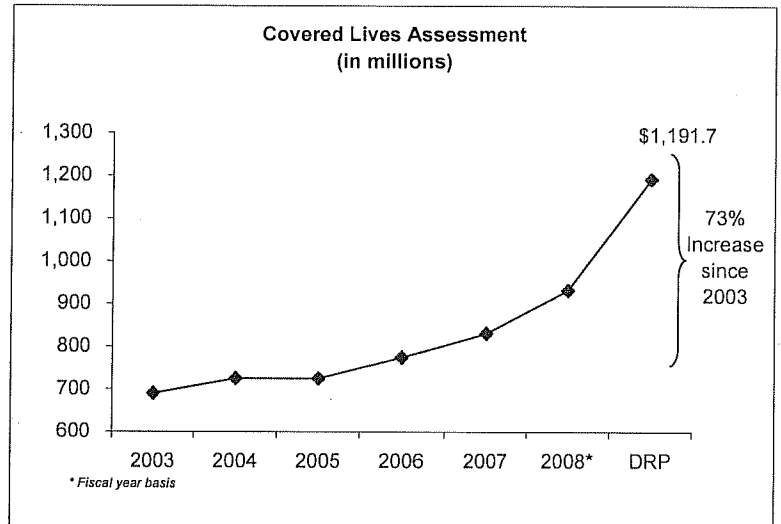
The executive budget would impose a tax of \$1 per claim over \$20 in value that a TPA investigates, adjusts, or pays in the state. The Division of the Budget (DOB) has estimated this new tax to raise \$63.1M in 2009-2010.

- Expand Application of the Patient Services Assessment to Radiological and Surgical Services in Non-Hospital Settings - \$50M

Provisions of the budget would also expand the application of the PSA to radiology and surgical services provided by physicians in physician offices or urgent care facilities (not currently licensed under article 28). The DOB revenue estimate for this provision is \$49.8M — a figure that appears to dramatically understate the likely receipts. Unlike New Jersey — which imposed a similar tax only on elective, cosmetic procedures — this tax would be applied to insured services that are medically necessary, such as colonoscopies or mammograms.

- Increase in the Patient Services Assessment — \$126M

An increase in the PSA for employee benefit funds is also proposed. The PSA would rise from 8.95% to 9.63% representing an 8% increase in the tax rate.



Region		Base Increases from \$920M to \$1.04 B		Supplemental CLA Increases from \$64.2M to \$174.2 for October 2008 to March 2009		Proposed CLA Total Per Individual or Family Policy	
		Individual	Family	Individual	Family	Individual	Family
New York City	Current Amount	\$164.61	\$ 543.20	\$22.60	\$ 74.58	\$187.21	\$ 617.78
	New Amount Per Budget	\$185.93	\$ 613.56	\$61.31	\$ 202.32	\$247.24	\$ 815.88
Long Island	Current Amount	\$46.56	\$ 163.54	\$6.94	\$ 22.90	\$53.50	\$ 186.44
	New Amount Per Budget	\$56.14	\$ 185.26	\$18.84	\$ 62.17	\$74.98	\$ 247.43
Northern Metro	Current Amount	\$28.99	\$ 95.68	\$3.69	\$ 12.18	\$32.68	\$ 107.86
	New Amount Per Budget	\$32.74	\$ 108.03	\$10.00	\$ 33.00	\$42.74	\$ 141.03
Northeastern	Current Amount	\$32.25	\$ 106.43	\$4.11	\$ 13.56	\$36.36	\$ 119.99
	New Amount Per Budget	\$36.42	\$ 120.19	\$11.16	\$ 36.83	\$47.58	\$ 157.02
Utica/Waterstown	Current Amount	\$6.74	\$ 22.24	\$0.86	\$ 2.84	\$7.60	\$ 25.08
	New Amount Per Budget	\$7.61	\$ 25.11	\$2.32	\$ 7.66	\$9.93	\$ 32.77
Central	Current Amount	\$42.47	\$ 140.16	\$5.51	\$ 18.18	\$47.98	\$ 158.34
	New Amount Per Budget	\$48.03	\$ 158.51	\$14.94	\$ 49.30	\$62.97	\$ 207.81
Rochester	Current Amount	\$81.70	\$ 269.91	\$10.39	\$ 34.29	\$92.09	\$ 304.20
	New Amount Per Budget	\$92.24	\$ 304.40	\$29.19	\$ 93.03	\$121.43	\$ 397.43
Western	Current Amount	\$30.93	\$ 102.08	\$3.76	\$ 12.41	\$34.69	\$ 114.49
	New Amount Per Budget	\$34.77	\$ 114.75	\$10.21	\$ 33.69	\$44.98	\$ 148.44

Health Insurance Taxes on Self-Insured Employee Benefit Plans

- Self-insured employee benefit plans are plans that are administered by employers or employee trusts — such as labor union benefit funds — that cover health insurance costs for employees. Self-insured plans are maintained by a variety of employers including municipalities, school districts, non-profit organizations, hospitals and universities.
- The Governor's proposed budget and the already enacted DRP Deficit Reduction Package (DRP) dramatically increase taxes on self-insured benefit plans struggling to provide health coverage. **Increasing taxes on self-insured plans will result in more costs to employers and employees.**

<u>DRP Taxes</u>	<u>More To Come in Proposed Taxes</u>		
Covered Lives Assessment	\$240M	Patient Service Assessment Increase	\$126M
		Expand Patient Service Assessment to Physician Office Surgery/Radiology	\$50M
		Third Party Administrator tax	\$ 62M
<i>Adopted DRP Total</i>		<i>Additional Executive Budget Total</i>	
	\$ 240M		\$ 238M
Total Impact on Self Insured Entities		\$ 478M	

- Of the taxes proposed in the main Executive Budget, two are new — to impose the Patient Services Assessment (PSA) on certain radiology and surgery procedures in physician offices and the new tax on claims processing by third party administrators (TPA tax). The Division of the Budget has estimated these new taxes will collectively raise \$112M. However, this figure grossly underestimates the actual amount because it did not fully account for the imposition of the tax on pharmacy claims.
- **New York just received more than \$5 billion in federal stimulus money earmarked for health care. Stimulus funds must be dedicated to rolling back the burdensome CLA increase as well as avoiding any new or increased health care taxes in 2009-2010**