ABHW
Advancing Health Care Policy for
Mental Health & Substance Use Disorders

September 21, 2026

Dr. Mehmet Oz
Centers for Medicare & Medicaid Services
United States Department of Health and Human Services
Attention: CMS-9898-NC
P.O. Box 8016, Baltimore, MD 21244-8016

Re: Medicaid Program; Amending the Indirect Hold Harmless Threshold of Health Care-Related Taxes [CMS-2452-P]

Dear Administrator Oz:

The Association for Behavioral Health and Wellness (ABHW) respectfully submits the following comments to the Centers for Medicare & Medicaid Services (CMS) in response to the proposed rule on the indirect hold harmless threshold for Medicaid health care-related taxes.

ABHW is the national voice for health plans managing behavioral health insurance benefits. Our member companies provide coverage to 200 million people in both the public and private sectors to treat mental health (MH), substance use disorders (SUDs), and other behaviors that impact health and wellness. Our organization aims to increase access, drive integration, support prevention, raise awareness, reduce stigma, and advance evidence-based treatment and quality outcomes. Furthermore, our policy work aims to ensure that physical and behavioral health care is integrated and coordinated. ABHW is committed to improving outcomes in whole-person care for all individuals and communities.

Provider taxes are an important source of Medicaid financing for states. H.R. 1 makes significant changes to these taxes, including freezing existing provider tax rates and gradually reducing the allowable threshold in Medicaid expansion states. These changes could place additional financial pressure on state Medicaid programs and ultimately affect Medicaid benefits, provider payments, and managed care programs.

These financing constraints could also reduce the resources available to states to address persistent behavioral health workforce shortages, expand access to mental health and substance use disorder (MH/SUD) treatment, and sustain critical behavioral health services, including inpatient psychiatric care and crisis services.

At the same time, states and Medicaid managed care organizations (MCOs) are implementing several other significant H.R. 1 requirements. ABHW therefore encourages CMS to provide states and health plans with sufficient implementation flexibility, minimize unnecessary administrative burden, and consider the cumulative operational and financial impact of these overlapping changes on Medicaid programs and the individuals they serve.

Calculation of the Hold Harmless Threshold

CMS proposes requiring states to use actual tax collections and actual net patient revenue to determine compliance with provider tax requirements. Currently, states may rely on estimates and projections.

ABHW recommends that CMS continue allowing states to use reasonable estimates and projections to demonstrate compliance. Requiring actual data would create new reporting and operational requirements for states, providers, and MCOs as they implement other significant H.R. 1 changes.

Reporting Requirements

ABHW supports appropriate oversight of Medicaid financing but is concerned that the proposed reporting requirements would create significant new administrative burdens for states and MCOs. Although states would be responsible for reporting the information to CMS, MCOs would likely need to provide much of the underlying enrollment, premium, revenue, tax, and other financial data. Plans offering multiple products could face particularly significant operational challenges.

ABHW recommends that CMS streamline these requirements and, wherever possible, use information already available to CMS and states.

Medicaid Managed Care Rates

ABHW also encourages CMS to consider how these provider tax changes could affect Medicaid managed care capitation rates. Some tax amounts may need to be adjusted or reconciled after MCO rates have already been developed and certified, creating uncertainty for states and health plans and potentially affecting the actuarial soundness of established rates.

CMS should provide states and plans with sufficient flexibility to account for these adjustments and clarify how to address them when developing or reconciling Medicaid managed care rates. **Where health care-related tax compliance, remediation, or enforcement changes state Medicaid financing, CMS should require any resulting changes affecting MCO payments to be implemented prospectively through actuarially sound capitation rates and should not impose retroactive recoupments or reductions to previously approved MCO rates based on state financing decisions outside plans' control.**

Transition Relief for Existing Health Care-Related Taxes

ABHW also recommends that CMS provide targeted transition relief for health care-related tax assessments that were enacted and have been collected as of July 4, 2025. Where CMS's implementation of H.R. 1 results in an existing assessment becoming subject to newly applicable broad-based or uniformity requirements, states should have a time-limited opportunity to seek any newly required waiver and bring the assessment into compliance.

Providing this transition period would recognize legitimate state reliance on existing Medicaid financing arrangements while preserving the requirements established under H.R. 1. **Any relief should be limited to assessments already in effect as of July 4, 2025, and should not create additional capacity for states to establish new or increase existing health care-related taxes.**

****

Thank you for the opportunity to provide feedback on this proposed rule. We are committed to engaging with CMS and other partners to identify opportunities to improve access to behavioral health for all individuals. If you have questions, please contact Kathryn Cohen, Senior Director of Regulatory Affairs, at cohen@abhw.org.

Sincerely,

Debbie Witchey, MHA
President and CEO