

Cite as Det. No. 04-0063R, 23 WTD 295 (2004)

BEFORE THE APPEALS DIVISION  
DEPARTMENT OF REVENUE  
STATE OF WASHINGTON

In the Matter of the Petition For )	<u>D E T E R M I N A T I O N</u>
Reconsideration of )	
)	No. 04-0063R
)	
... )	Registration No. . . .
)	Document No. . . .
)	Audit No. . . .
)	Docket No. . . .

RCW 82.04.4311: MEDICARE+CHOICE – PREMIUMS – DEDUCTION.  
Public hospital district may deduct its receipt of premiums received under the Medicare+Choice program under RCW 82.04.4311 because they are amounts “received as compensation for health care services covered under the federal Medicare program.” They are not amounts received as patient co-payments or patient deductibles.

Headnotes are provided as a convenience for the reader and are not in any way a part of the decision or in any way to be used in construing or interpreting this Determination.

STATEMENT OF THE CASE:

Public hospital district petitions for reconsideration of Det. No. 04-0063, in which we held it was not entitled to a refund of business and occupation (B&O) tax its hospital and clinics paid on certain amounts received under the Medicare+Choice program under RCW 82.04.4297 or 82.04.4311. On reconsideration, we clarify Det. No. 04-0063 and conclude that amounts the hospitals receives under the Medicare+Choice program are deductible to the extent these amounts are not co-payments and deductibles received directly from the insured patients.<sup>1</sup>

---

<sup>1</sup> Identifying details regarding the taxpayer and the assessment have been redacted pursuant to RCW 82.32.410.

## ISSUE:

Are amounts received by a hospital and clinics operated by a public hospital district under the Medicare+Choice program deductible under RCW 82.04297 or 82.04.4311 when those amounts may be comprised of both patient premiums and amounts received from the federal government?

## FINDINGS OF FACT:

C. Pree, A.L.J --The taxpayer is a public hospital district<sup>2</sup> that operates a hospital and several clinics in Washington. The taxpayer requested a refund of taxes paid on Medicare Managed Care revenue. In response to this request, the Audit Division of the Department of Revenue (Department) reviewed the taxpayer's records specific to this request for the period of January 1, 1998, through April 30, 2002, and issued a credit assessment comprised of service B&O tax of \$ . . . , public or nonprofit hospital tax of \$ . . . , and interest of \$ . . . . The total credit was \$ . . . .

In issuing the credit, the Audit Division granted a portion of the requested refund, but withheld 20% of the amount requested. In its schedules, the Audit Division labeled the 20% that was not refunded as "estimated Patient Deductibles, Copays and Insured Portion of Monies Received." The 20% was comprised of amounts the taxpayer received from [Organization A and B] through the Medicare+Choice program. Amounts received from [Organization A and B] are comprised of both amounts received from the federal government under the Medicare program and amounts paid by the insured patients as premiums. The taxpayer also receives amounts directly from patients enrolled in [Organization A and B] in the form of co-payments and deductibles. Both the taxpayer and the Audit Division agree that these co-payments and deductibles are not deductible under RCW 82.04.4297 or 82.04.4311.

The taxpayer takes issue with the Audit Division's failure to grant a refund of the 20% discussed above. In Det. No. 04-0063, we understood the amounts at issue included only deductibles and co-payments, not premiums, and remanded the issue to the Audit Division to allow the taxpayer to provide records to prove that the amount the Audit Division excluded from the deduction was overstated. On reconsideration, the taxpayer clarified that the amounts at issue were not co-payments or deductibles the hospital received directly from the patients, but were amounts the patients may have paid as premiums to their health care programs. The hospital received a lump sum from the program, i.e., no distinction was made between amounts received from Medicare and amounts patients may have paid as premiums to their health care programs.

## ANALYSIS:

The deduction at issue, RCW 82.04.4311, provides as follows:

---

<sup>2</sup> See RCW 70.44.

A public hospital that is owned by a municipal corporation or political subdivision, or a nonprofit hospital that qualifies as a health and social welfare organization as defined in RCW 82.04.431, may deduct from the measure of tax amounts received as compensation for health care services covered under the federal Medicare program authorized under Title XVIII of the federal social security act; medical assistance, children's health, or other program under chapter 74.09 RCW; or for the state of Washington basic health plan under chapter 70.47 RCW. The deduction authorized by this section does not apply to amounts received from patient co-payments or patient deductibles.<sup>3</sup>

(Emphasis and footnote added.) In our original determination, we concluded that the amounts at issue were not entitled to the deduction because they were patient co-payments or patient deductibles. On reconsideration, the taxpayer clarified that the amounts at issue were actually premiums, which patients may have paid to their health care programs.

The taxpayer has no way of determining these amounts, because it receives a lump sum from the program, with no distinction between amounts derived from Medicare and premiums paid by the insured patients. We conclude that these amounts are properly entitled to the deduction because they are amounts "received as compensation for health care services covered under the federal Medicare program." They are not amounts received as patient co-payments or patient deductibles.

Our conclusion is supported by the legislative history of RCW 82.04.4311. Laws of 2002, Chapter 314 (HB 2732), provides:

The legislature finds that the provision of health services to those people who receive federal or state subsidized health care benefits by reason of age, disability, or lack of income is a recognized, necessary, and vital governmental function. As a result, the legislature finds that it would be inconsistent with that governmental function to tax amounts received by a public hospital or nonprofit hospital qualifying as a health and social welfare organization, when the amounts are paid under a health service program subsidized by federal or state government. Further, the tax status of these amounts should not depend on whether the amounts are received directly from the qualifying program or through a managed health care organization under contract to manage benefits for a qualifying program.

The amounts at issue here are "paid under a health service program subsidized by federal or state government." The legislative history does not contemplate bifurcating the amounts the hospital receives from [Organization A and B] based on how the amounts came into the federally subsidized health service program.

---

<sup>3</sup>RCW 82.04.4311 is retroactive to January 1, 1998; taxpayers are entitled to a refund of amounts paid that are deductible under RCW 82.04.4311. HB 2732, section 4.

In short, amounts the hospital receives from patients as co-payments or deductibles are not entitled to the deduction (unless those amounts are in fact paid by Medicaid.) However, amounts the hospital receives through the federally-subsidized health service program are deductible, despite the fact that a portion of these amounts may have ultimately originated with the patients, as premiums.

CONCLUSIONS OF LAW AND DISPOSITION:

The taxpayer's petition is granted. We remand the taxpayer's petition to the Audit Division for adjustment consistent with this decision.

Dated this 29<sup>th</sup> day of April 2004.