WEST VIRGINIA CODE: §11-27-10A

§11-27-10a. Imposition of tax on managed care organizations.

(a) Imposition of tax. — For the privilege of holding a certificate of authority within this state to establish or operate a "health maintenance organization" pursuant to §33-25A-4 of this code (hereinafter "certified HMO"), there is hereby levied and shall be collected from every such certified HMO an annual broad-based health care-related tax.

(b) Rate and measure of tax.

(i) Beginning July 1, 2027, the tax imposed by this section shall be two and one-half percent of each certified HMO's gross premiums written in this state during each calendar quarter.

The tax rate in this subsection applies uniformly to all certified HMOs regardless of their share of Medicaid, Medicare, commercial, or non-Medicaid membership.

The tax imposed in this section does not apply to Medicare Advantage plans, a health plan issued by the West Virginia Public Employees Insurance Agency or a plan issued pursuant to the Federal Employees Health Benefits Act of 1959 (Public Law 86-382) to the extent the imposition of the tax under this section is preempted pursuant to 5 U.S.C. § 8909(f).

(c) Definitions. —

(1) "Managed care organization" or "MCO" means a certified HMO that provides health care services in the state of West Virginia.

(2) "Taxable health plan" means: (i) An agreement or contract under which a certified HMO agrees to provide health care services in the state of West Virginia.

(3) "Tax year" means the fiscal year beginning on July 1 and ending on June 30.

(4) "Gross Premiums" means the total amount of premiums, capitation payments, or other consideration received by the certified HMO for providing or arranging health care services to enrollees in this state.

(d) Effective date. —

(i) On July 1, 2027, the tax structure under this section shall transition from the tiered member-month method to the gross premium assessment method described in subsection (b)(i) above subject to federal approval that the new tax structure imposed by this subsection is a permissible health care-related tax in accordance with 42 C.F.R. §433.68 and is therefore eligible for federal financial participation. Until July 1, 2027, the provisions of this section in effect prior to the amendments to this section enacted in 2026 shall remain in full force and effect.

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(ii) The tax imposed by this section shall be administered in accordance with the provisions of this article and the Tax Administration and Procedures act in §11-10-1 *et seq.* of this code: *Provided,* That the tax imposed by this section shall be automatically void if the Centers for Medicare and Medicaid Services determines that it is no longer a permissible health care-related tax that is eligible for federal financial participation.

(e) Time for paying tax. — Notwithstanding the provisions of §11-27-25 of this code, no taxes may be collected under this article until the department receives written notice that the federal Centers for Medicare and Medicaid Services has approved proposed Medicaid rates as actuarially sound for the taxable year in which the tax will be imposed.

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