



## Legislative Fiscal Bureau

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November 29, 2011

TO: Senator Pam Galloway  
Room 409 South, State Capitol

FROM: Eric Peck, Fiscal Analyst

SUBJECT: Assessment on Ambulatory Surgical Centers

As you requested, this memorandum provides information regarding the assessment the Wisconsin Department of Revenue (DOR) imposes on ambulatory surgical centers (ASCs).

The 2009-11 biennial budget (2009 Act 28) authorized DOR to impose an assessment on ASCs that would satisfy the requirements of federal law regarding provider assessments under the medical assistance (MA) program without subjecting the state to a reduction in federal MA matching funds. Briefly, those federal regulations require that such provider assessments meet the following criteria: (a) they must be broad based, meaning they must be imposed on all health care items or services in the applicable class that are furnished by all non-federal, non-public providers in the state; (b) they must be uniformly imposed; and (c) they must not violate "hold harmless" rules that prohibit states from providing any payment, offset, or waiver that either directly or indirectly guarantees that assessed entities will be held harmless for all or a portion of the assessment. There is a "safe harbor" exception to the indirect guarantee aspects of this hold harmless prohibition if the assessment rate does not exceed 5.5% of the provider revenues subject to the assessment.

The ASC assessment is based on each ASC's gross patient revenues, a term DOR defines as the gross amount received on a cash basis by the ASC from all patient services. Pursuant to Act 28, DOR retains 0.5% of the ASC assessment revenues it collects to offset its administrative costs, and transfers the balance to the MA trust fund. The MA trust fund is a segregated fund maintained by the Department of Health Services (DHS). DHS uses a portion of the ASC assessment revenues deposited to the MA trust fund, along with federal matching funds, to increase the reimbursement rates paid to ASCs for the services they provide to MA recipients. ASC assessment revenues not used for that purpose are used to reduce the amount of GPR that would otherwise be needed to support the MA program.

DOR began collecting this assessment from Medicare-certified ASCs in 2009-10. In that first year, DOR collected assessments from 58 ASCs. As of September, 2011, the number of Medicare-certified ASCs in the state had increased to 65. Attached to this memorandum is a list of those 65 ASCs. DOR collected approximately \$16,000,000 in ASC assessment revenues in 2009-10, and \$16,700,000 in 2010-11. DOR is expected to collect \$16,700,000 in ASC assessments annually in 2011-12 and 2012-13.

Tables 1, 2, and 3 summarize the actual (2009-10 and 2010-11) and projected (2011-12 and 2012-13) impact of the ASC assessment. Table 1 shows the amount of ASC assessment revenues collected by DOR and the net amounts transferred to the MA trust fund.

**TABLE 1**

**ASC Assessment Revenues Transferred to MA Trust Fund,  
2009-10 and 2010-11 (Actual), and 2011-12 and 2012-13 (Projected)**

<u>Fiscal Year</u>	Total Assessments Collected <u>from ASCs</u>	Less 0.5% Retained <u>by DOR</u>	Net Transfer <u>to MATF</u>
2009-10	\$16,000,000	-\$80,000	\$15,920,000
2010-11	16,700,000	-83,500	16,616,500
2011-12	16,700,000	-83,500	16,616,500
2012-13	16,700,000	-83,500	16,616,500

Table 2 shows the portion of these ASC assessment revenues used to support enhanced MA reimbursement rates paid to ASCs. Table 2 also shows the total all-funds amount of additional MA reimbursement paid to ASCs under the assessment.

**TABLE 2**

**ASC Assessment Revenues Used to Increase  
MA Reimbursement Rates to ASCs,  
2009-10 and 2010-11 (Actual), & 2011-12 and 2012-13 (Projected)**

<u>Fiscal Year</u>	<u>Net Transfer to MATF</u>	<u>Assessment Revenues Used to Support Higher MA Reimbursement Rates</u>	<u>Federal MA Matching Funds</u>	<u>Total Additional MA Reimbursement to ASCs Through ASC Assessment</u>
2009-10	\$15,920,000	\$5,933,600	\$14,146,400	\$20,080,000
2010-11	16,616,500	6,275,000	13,805,000	20,080,000
2011-12	16,616,500	7,943,600	12,136,400	20,080,000
2012-13	16,616,500	7,967,700	12,112,300	20,080,000

Table 3 summarizes all of the uses of the ASC assessment revenues during the period in question, including the portion used to increase MA reimbursement rates to ASCs and the portion used to reduce the amount of GPR otherwise required to support the MA program.

**TABLE 3**

**Summary of Uses of ASC Assessment Revenues,  
2009-10 and 2010-11 (Actual), & 2011-12 and 2012-13 (Projected)**

<u>Fiscal Year</u>	<u>Total Assessments Collected from ASCs</u>	<u>Less 0.5% Retained by DOR</u>	<u>Net Transfer to MATF</u>	<u>Assessment Revenues Used to Support Higher MA Reimbursement Rates</u>	<u>Assessment Revenues Used to Replace GPR</u>
2009-10	\$16,000,000	-\$80,000	\$15,920,000	\$5,933,600	\$9,986,400
2010-11	16,700,000	-83,500	16,616,500	6,275,000	10,341,500
2011-12	16,700,000	-83,500	16,616,500	7,943,600	8,672,900
2012-13	16,700,000	-83,500	16,616,500	7,967,700	8,648,800

Note that the figures in Tables 1, 2, and 3 are aggregate statewide totals. As the tables indicate, the ASC industry as a whole benefitted (or is projected to benefit) from the assessment in that the additional MA reimbursement paid to ASCs as a result of the assessment, in the aggregate, exceeds the total amount of assessments paid.

The impact on any particular ASC, however, varies depending upon that ASC's MA caseload. Generally speaking, ASCs with relatively high MA caseloads benefit from the assessment while ASCs with low (or no) MA caseloads do not. This office has asked DOR and

DHS for information that would enable us to present the results of the ASC assessment on an ASC-specific basis. Those agencies indicated that under state law, tax information of this nature is deemed confidential and is not available for public dissemination. DHS did indicate, however, that of the 58 ASCs subject to the assessment in 2009-10, 25 were net winners (meaning they received enhanced MA reimbursement payments in excess of the amounts they paid in assessments), and 33 ASCs were net losers. It is not certain whether that relative mix of winners and losers will continue in future years.

2011 Senate Bill 297 would repeal the ASC assessment effective July 1, 2013. As the foregoing discussion indicates, repeal of the assessment would impact ASCs differently, depending primarily upon their relative MA caseloads.

With respect to funding for the MA program, repeal of the ASC assessment would, all things being equal, add approximately \$8.6 million annually to the MA program's structural deficit beginning in fiscal year 2013-14. That projected impact to the program's structural deficit results from the fact that approximately \$8.6 million in ASC assessment revenues currently used to reduce the amount of GPR needed to finance the MA program would no longer be available if the assessment, as currently structured, is repealed effective July 1, 2013.

I hope this information is helpful.

EP/sas  
Attachment

ATTACHMENT

List of Medicare-Certified ASCs in Wisconsin  
September, 2011

Medicare-Certified Ambulatory Surgical Centers

Access Medical Center LLC  
Alexander Eye Surgery Center LLC  
Ambulatory Surgical Center  
Ambulatory Surgical Center of Stevens Point  
Arthroscopic Surgery Center

Aspirus Stevens Point Surgery Center LLC  
Aurora Health Center Marinette ASC  
Bellin Orthopedic Surgery Center LLC  
Bjosc LLC  
Bluemound Surg Center

Center for Digestive Health  
Davis Duehr Surgery Center  
Diagnostic & Treatment Center  
East Mequon Surgery Center  
Eye Surgery and Laser Center of Wi

Froedtert Surgery Center LLC  
Gastrointestinal Associates Endoscopy Center LLC  
GI Specialists LLC  
Independent Surgery Center LLC  
Lake Country Endoscopy Center LLC

Madison Surgery Center  
Manitowoc Surgery Center  
Marshfield Clinic Eau Claire ASC  
Marshfield Clinic- Marshfield Center ASC  
Marshfield Clinic- Minocqua Center ASC

Marshfield Clinic- Wausau Center ASC  
Mayfair Digestive Health Center  
Menomonee Falls ASC  
Metropolitan Medical Center  
Milwaukee Endoscopy Center

Niagara Health Center  
North Shore Surgical Center  
Northwest Surgery Center  
Northwood Surgery Center LLC  
Novamed Surgery Center of Madison

City

Racine  
Appleton  
Oshkosh  
Stevens Point  
Appleton

Stevens Point  
Marinette  
Green Bay  
Wausau  
Waukesha

Milwaukee  
Madison  
Weston  
Mequon  
Milwaukee

Milwaukee  
Wausau  
Waukesha  
Chippewa Falls  
Oconomowoc

Madison  
Manitowoc  
Eau Claire  
Marshfield  
Minocqua

Wausau  
Wauwatosa  
Menomonee Falls  
Shorewood  
Milwaukee

Niagara  
Milwaukee  
Wauwatosa  
Woodruff  
Madison

Medicare-Certified Ambulatory Surgical Centers

	<u>City</u>
Orthopedic Surgery Center LLC	Waukesha
Orthopedic and Sports Surgery Center	Appleton
Pain Center of Wisconsin-Franklin	Franklin
Pain Center of Wisconsin Green Bay	Green Bay
Pain Center of Wisconsin-Fox Point	Fox Point
Pain Center of Wisconsin-Waukesha	Waukesha
Pine Ridge Surgery Center LLC	Wausau
Pinnacle Cataract & Laser Institute	Appleton
PMTc Surgery Center	Milwaukee
Riverview Surgery Center	Janesville
Sheboygan Medical Center	Sheboygan
Southeast Wisconsin Ambulatory Surgical Center Sc	Kenosha
Surgery and Care Center St Marys Dean	Madison
Surgery Center LLC	Franklin
Surgery Center of Sheboygan	Sheboygan
Surgery Center of Wisconsin Rapids	Wisconsin Rapids
Surgicenter of Greater Madison	Madison
Surgicenter of Greater Milwaukee	Milwaukee
Surgicenter of Racine	Racine
The Center for Aesth And Plastic Surgery	Neenah
Thedacare Ambulatory Surgery Center Shawano	Shawano
Transformations Surgery Center Inc.	Middleton
United Medical Center LLC	Milwaukee
Urban foot Care Surgical Center	Milwaukee
Wausau Surgery Center	Wausau
Wauwatosa Surgery Center	Wauwatosa
West Bend Surgery Center	West Bend
Wisconsin Health Center	Greenfield
Wisconsin Surgery Center	Milwaukee
Woodland Surgery Center	Appleton

Source: DHS Website