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Electronic Medical Records Tax Credit Effective Date Delay (General Fund Taxes -- Income and Franchise Taxes)

[LFB 2009-11 Budget Summary: Page 262, #14]

CURRENT LAW

2007 Wisconsin Act 20 created an electronic medical records tax credit under the individual and corporate income and franchise taxes. The tax credit equals 50% of the amount paid by a health care provider in a tax year for information technology hardware or software that is used to maintain medical records in an electronic form. Tax credits not entirely used to offset income and franchise taxes can be carried forward up to 15 years to offset future tax liabilities. The maximum total amount of electronic medical records tax credits that can be claimed in a tax year is $10 million, and is allocated to claimants by the Department of Commerce. The electronic medical records tax credit can first be claimed for tax years beginning after December 31, 2009.

GOVERNOR

Provide that the electronic medical records tax credit under the state individual income and corporate income and franchise taxes could first be claimed for tax years beginning after December 31, 2011, rather than for tax years beginning after December 31, 2009, as under current law. Also, the credit could be used to offset individual income tax minimum tax liability, to provide comparable treatment to that provided for other tax credits. The delayed effective date would increase state income and franchise tax revenues by an estimated $4,500,000 in 2009-10 and $10,000,000 in 2010-11.

DISCUSSION POINTS

1. Under current law provisions, Commerce is required to implement a program to certify health care providers as eligible to claim the electronic medical records tax credit. After certifying health care providers as eligible, Commerce is required to allocate tax credits to individual claimants, subject to the annual total credit limit of $10 million. Commerce must inform DOR of every health care provider that is certified and of the amount of tax credits allocated to each provider. Commerce must also, in consultation with DOR, promulgate rules to administer the certification and tax credit allocation process.

"Health care provider" means a licensed nurse, chiropractor, dentist, physician, podiatrist, perfusionist, physical therapist, occupational therapist, occupational therapy assistant, physician assistant, respiratory care practitioner, dietician, athletic trainer, optometrist, pharmacist, acupuncturist, psychologist, social worker, marriage and family therapist, professional counselor, speech-language pathologist, audiologist, speech and language pathologist, massage therapist, bodyworker, a partnership of providers, a corporation or LLC of providers that offer health care services, an operational cooperative sickness care plan that directly provides services through salaried employees at its own facility, a hospice, a rural medical center, an inpatient health care facility, and a community-based residential facility.

2. The current electronic medical records tax credit was adopted as a measure that would contribute to improving health care and decreasing health care costs. A 1999 study by the Institute of Medicine indicated that as many 98,000 people in the United States die annually from medical errors, and a lack of coordinated care was a major factor. A 2006 Institute study found that drug-related errors harmed about 1.5 million people each year, and the extra medical costs of treating drug-related injuries that occur in hospitals amounted to $3.5 billion annually. Though many factors contribute, a significant cause is inadequate access to information and resulting waste, fragmentation of care, and errors. For example, a 2005 study found that missing information compromised about 13% of all clinical encounters (Smith, et al.).

3. One of the more widely referenced studies that estimated the potential national benefits that would result from widespread adoption of health information technology was conducted by the RAND Health Information Technology (HIT) Project Team between 2003 and 2005. A simulation model projected annual efficiency savings would be $77 billion, after average annual savings of $42 billion during implementation. The estimated combined savings from long-term prevention and management, and reduced acute care due to disease management, was $147 billion a year. RAND estimated the cumulative costs for 90% of hospitals to adopt a HIT system to be $98 billion, with average yearly costs of $6.5 billion during a 15-year implementation period. Over 15 years the cumulative potential net efficiency and safety savings from hospital systems could be nearly $371 billion; while the potential cumulative net savings from physician practice HIT systems would be $142 billion.

4. Numerous health care providers lack the information systems necessary to coordinate a patient's care with other providers, share required information, monitor compliance

with preventive actions and disease management guidelines, and measure and improve performance. Also, consumers generally lack the information they need about costs or quality to make informed decisions about their care. Historically, health care providers have documented and delivered health care using paper records because of their simplicity, low implementation cost, and widespread acceptance. However, paper records have a number of disadvantages, including availability to only one person at one time, frequent illegibility, inability to be accessed from remote locations or at the time and place they may be needed, low utility in measuring quality of care, and segmentation because of multiple volumes and storage sites. Consequently, many health care industry participants and experts view electronic health records and health information interoperability as part of a solution to improve health care quality and safety, and to reduce costs. It is estimated that about 8% of the 5,000 hospitals in the U.S., and 17% of the 800,000 physicians currently use a common computerized record-keeping system.

5. As introduced by the Governor in 2007 Senate Bill 40 (the 2007-09 biennial budget bill), the electronic medical records tax credit would have been provided starting with tax years beginning after December 31, 2008. However, the Legislature moved the effective date to tax years beginning after December 31, 2009.

6. The Federal American Recovery and Reinvestment Act (ARRA) includes $19 billion to accelerate the use of computerized health records over five years. Under the Act, the federal Centers for Medicare and Medicaid Services (CMS) will offer $19 billion in incentives to medical practices that adopt interoperable health information technology. Beginning in 2011, eligible physicians who accept Medicare and Medicaid payments can receive between $44,000 and $64,000 over five years for implementing and using certified HIT. Practices that have not implemented certified HIT systems by 2014 will have their Medicare reimbursements reduced by up to 3%, beginning in 2015. An additional $2 billion in funding is allocated for discretionary use.

7. The administration indicates that the effective date of the credit was delayed because of the ARRA funding. It was believed that with $21 billion in federal funding, the tax credit could be delayed without a negative impact on implementation of HIT. However, delaying the effective date of the state electronic medical records tax credit would be counter to the federal emphasis on accelerated adoption of electronic health records technology. An alternative would be to delay the effective date of the credit until tax years beginning after December 31, 2010, so that the state credit would be effective in the same year that the federal reimbursement program starts. Compared to the bill, this would reduce state individual income and corporate income and franchise tax revenues by an estimated $4,500,000 in 2010-11.

ALTERNATIVES

1. Adopt the Governor's recommendation to delay the effective date of the electronic medical records tax credit to tax years beginning after December 31, 2011, and make technical changes regarding the minimum tax.

2. Delay the effective date of the credit to tax years beginning after December 31, 2010, and make the technical changes recommended by the Governor.

ALT 2	Change to Bill Revenue
GPR	- $4,500,000

3. Delete the Governor's recommendation to delay the effective date of tax credit, but make the technical changes recommended by the Governor.

ALT 3	Change to Bill Revenue
GPR	- $14,500,000

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