

October 27, 2009

**Re: States implementing a tax on physician gross receipts or state sales taxes on chemotherapy medicines in the field of oncology**

The Association of Community Cancer Centers (ACCC) urges states not to impose gross receipts taxes (GRT) or a sales tax on prescription drugs administered in the physician office. Doing so would introduce a major financial hardship on physicians that would not be covered by insurance, a cost likely to be passed on to the patient in the form of decreased timely access to therapies. ACCC is a membership organization whose members include hospitals, physicians, nurses, social workers, and oncology team members who care for millions of patients and families fighting cancer. ACCC's more than 900 member institutions and organizations treat 60 percent of all U.S. cancer patients when combined with our physician membership.

Since 1998, physicians have been dealing with continued decreases in Medicare reimbursement with another potential decrease of 21 percent expected for 2010. That number does not include the decreases that some individual specialties will see as well, including a 6 percent reduction in medical oncology and a 19 percent reduction in radiation oncology. At the same time, the cost of providing medical care has increased.

Physicians must employ highly qualified staff who have specialized knowledge and experience in preparing and administering chemotherapeutic drugs. To attract and maintain such highly-trained staff, physicians must pay them competitive salaries. This is becoming harder to do in this economic climate, let alone when an extra tax is levied.

Physicians in the community administer chemotherapeutic drugs (including, anti-neoplastic drugs, biologicals, therapeutic agents and supportive drugs,) for the treatment of hematologic and oncologic diseases in their medical offices. These drugs account for a significant amount of physicians' gross receipts, nearly 80 percent in some cases, but are not reflective of the revenue actually realized by these small businesses. Therefore, an added tax would unfairly target physicians, since this is not a cost that can be directly passed on to consumers.

Oncology practices can spend more than \$10 million a year on chemotherapeutic drugs. The issue is made more complex because of the fact that practices order these drugs on a per-needed basis, pay for the drugs immediately, and then wait for an individual's insurance to provide reimbursement.

Further complicating this situation is the fact that the physicians cannot set their own prices for reimbursement of chemotherapeutic drugs. Therefore, they cannot control their revenue stream in the same manner as other businesses and pass the increased cost onto their customer. This reimbursement rate is commonly referred to as Average Sales

Price + 6 percent or ASP + 6 percent. Often when dealing with Medicare or Medicaid, the physician is reimbursed at a rate at or below their actual cost. Any revenue received from the drugs is mostly used to pay for the costs related to ordering, storing, mixing and maintaining the drugs.

Consequently, the imposition of taxes places physicians in an even more onerous situation if they wish to continue treating their patients in the community setting. Physicians have both fixed and variable costs, but unlike other businesses, these costs may be extremely high. Physicians have no power to manipulate their budget, due to Medicare or Medicaid's reimbursement rules. The physicians do not hold drugs as inventory, rather they are ordered for a specific patient, and the reimbursement received is essentially a pass-through. For them, administering chemotherapeutic drugs does not constitute a sale of optional merchandise; rather, it is an integral and inseparable part of the medical service and the treatment of cancer.

As discussed above, imposing taxes on these drugs is a significant burden on physicians practicing in the specialty of oncology. Due to this burden, it is likely some oncology physicians practicing in the community setting will have to reduce the number of patients they see, change how they do business, or change where they practice oncology to more centrally-located settings. This would have a dramatic effect on patient access to cancer care. This, coupled with the fact that there are very few new physicians entering this specialty, may lead to a shortage of oncology physicians practicing in the community settings.

Therefore, ACCC respectfully requests all states to reconsider the imposition of any taxes on these life-saving drugs. A number of states have successfully rescinded this tax, including Ohio, Illinois, Texas, and others. For more information, please contact Matt Farber, Director of Provider Economics and Public Policy at ACCC at [mfarber@accc-cancer.org](mailto:mfarber@accc-cancer.org).