

*Intergovernmental Transfers  
and the Texas Medicaid  
Transformation Waiver*

Steve Aragón

Chief Counsel | Health & Human Services Commission

# *Financing Challenges*

# Issues

- Removal of Charge Caps
  - Low Uncompensated Care
  - Private hospital participation
- Adequacy of Public Budgets
  - Expanded Uncompensated Care
  - Tax Limits
    - Limited tax authority
    - No tax authority
  - Constitutional concerns

# 42 C.F.R. 433.51

- Public Funds can be used as the State's share if the funds are:
  - Appropriated to state or local government
  - Transferred from another public agency and under its administrative control
  - Certified Public Expenditures (CPEs)
  - Not Federal funds

# *IGT Principles*

# Who Can Transfer Funds?

- Any unit of local government, such as:
  - Public hospital
  - Hospital District
  - County
  - City
  - Local Mental Health Authority
- Any state agency

# What Funds Can Be Transferred?

A governmental entity can IGT if:

- The funds are in the governmental entity's administrative control
- The funds are not federal funds
- The funds are public funds, not private funds
- There is no statutory or constitutional requirement that relates to the funds
- The funds are not impermissible provider-related donations

# Provider-related Donations

A provider-related donation:

- Is a **voluntary donation** from a **non-governmentally operated health care provider** or entity related to a private health care provider—in cash or in kind;
- Made to a **state agency** or **local government**, whether or not that agency or local government furnishes an IGT; and
- Is **directly or indirectly related to a Medicaid payment** or other payment to providers.

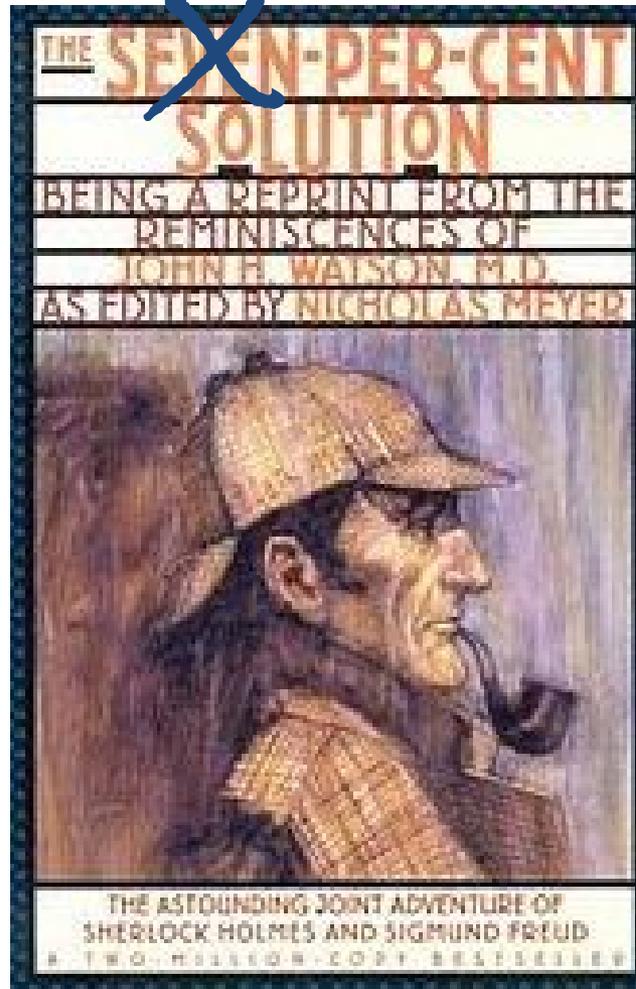
Private health care providers cannot make donations directly to HHSC or indirectly through a local government agency to HHSC.

So, HHSC can't accept an IGT that violates the provider donation rules...

...but

Private Medicaid providers can support **community activities**, and local governments that make IGTs may take account of that support in deciding whether to make an IGT that will be used to fund Medicaid payments to those providers.

- A provider's decision to offer time, money or resources to a community project must be completely **independent of the local government's decision** to make an IGT and the amount of the IGT.
- The public entity's decision to make an IGT of any amount must be **independent of the amount of the private provider's community support activity**.



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# The Issues

1. Can a county transfer all or part of the 8% ad valorem tax set aside for indigent health care as an inter-governmental transfer (IGT) under the Waiver?
2. If a county transfers all or part of the 8% set aside as an IGT, will the county be eligible for state assistance under the Indigent Health Care and Treatment Act?
3. If the county transfers all or part of the 8% set aside as an IGT, is it financially responsible for indigent health care expenses above the 8% or the \$30,000 individual annual cap under the Act?

# The Answers (?)

1. Yes, provided the transfer complies with the IGT guidelines and the commissioners court concludes that the transfer fulfills its obligations to provide indigent health care under the Act.
2. Yes, as long as the court makes the decision above. But DSHS procedures will need to be revised to accommodate the necessary accounting under the Act.
3. No.

# Key Concepts

- Payor of last resort:

Sec. 61.022. COUNTY OBLIGATION. (a) A county shall provide health care assistance as prescribed by this subchapter to each of its eligible county residents.

(b) The county is the payor of last resort and shall provide assistance only if other adequate public or private sources of payment are not available.

# Key Concepts

- **Subrogation:**

Sec. 61.044. SUBROGATION. (a) The filing of an application for or receipt of services constitutes an assignment of the applicant's or recipient's right of recovery from:

- (1) personal insurance;
- (2) other sources; or
- (3) another person for personal injury caused by the other person's negligence or wrong.

....

(d) A separate and distinct cause of action in favor of the county is hereby created, and the county may, without written consent, take direct civil action in any court of competent jurisdiction. A suit brought under this section need not be ancillary to or dependent on any other action.

(e) The county's right of recovery is limited to the amount of the cost of services paid by the county...

# Steve Aragón

Chief Counsel | Health & Human Services Commission  
Tel. 512.424.6578 | Email: [steve.aragon@hhsc.state.tx.us](mailto:steve.aragon@hhsc.state.tx.us)