NASACT National Association of State Auditors, Comptrollers and Treasurers

AUGUST 4, 2014

Washington Update

GAO ON STATE MEDICAID PAYMENTS: MORE TRANSPARENCY NEEDED

Medicaid was the focus of a U.S. Government Accountability Office report last week. States use various sources of funds to finance the non-federal share of Medicaid, such as funds from health care providers and local governments. GAO in the past has expressed concerns about federal oversight of complex state Medicaid financing arrangements where states seek funds from the providers for the non-federal share of the payments, and oversight of large supplemental payments that states often make to government providers. GAO has found that "…states have established complex financing arrangements to make excessive payments—often large Medicaid supplemental payments—to government providers in order to leverage federal funds for the payments."

The report, entitled "Completed and Preliminary Work Indicate that Transparency around State Financing Methods and Payments to Providers Is Still Needed for Oversight," indicates that data needed for overseeing state Medicaid payments is lacking. At the state level, GAO found preliminary results in three selected states suggesting that payment data maintained by states is not always reliable and can be challenging to obtain and assess.

GAO noted:

> "…even more can be done to improve the transparency of Medicaid financing and payments, such as facility specific reporting of supplemental payments, review of all state supplemental payment programs, and…that the Centers for Medicare & Medicaid Services (CMS) take steps to ensure states report accurate and complete data on all sources of funds to finance the nonfederal share."

The full report can be found at http://www.gao.gov/assets/670/665069.pdf.

SEC EXTENDS MCDC DEADLINE

The U.S. Securities and Exchange Commission has announced that the deadline for the Municipalities Continuing Disclosure Cooperation (MCDC) Initiative has been extended from September 10, 2014 to December 1, 2014. Under the MCDC, the SEC will recommend standardized settlement terms for municipal issuers and underwriters who self-report that they have made inaccurate statements in bond offerings about their prior compliance with continuing disclosure obligations.

There has only been one settlement so far: the SEC found that in the course of a 2010 bond offering, Kings Canyon Joint Unified School District affirmed to investors that it had complied with prior continuing disclosure obligations. The SEC claims the statement was inaccurate because between at least 2008 and 2010, the school district had failed to submit some required disclosures. The SEC did not specify what the disclosure failures were, nor has

provided the municipal market any guidance on future MCDC reporting requirements.

An SEC press release on the matter, #2014-156, can be found at http://www.sec.gov/News/Page/List/Page/1356125649507.

PEW REPORTS ON STATE'S RAINY DAY FUNDS

The Pew Charitable Trusts has released a report examining state's rainy day funds. The report delves into ways states can design their rainy day funds to harness fluctuations in revenue and reviews the rules that guide when, how, and how much states are saving—including deposit rules and fund caps—and compares these policies with each state's experience with volatility to identify best practices.

The report notes that one of the basic reasons preventing states from saving enough is that 37 states set fixed caps for their rainy day funds – preventing them from saving enough to weather recessions or other calamities. The report found that

> "Even when states do study volatility, their budget stabilization funds often have caps on the maximum fund size and deposit rules (the mechanisms that trigger a payment to the fund) that do not reflect the states' unique revenue fluctuations. These caps and rules hinder states' ability to grow reserves in line with those observed revenue patterns. States often make saving the last priority in the budget process, impeding careful consideration of deposit amounts and risking insufficient resources to provide an adequate fiscal cushion."

The full report can be viewed at http://www.pewtrusts.org/~/media/Assets/2014/07/SFH_Rainy-Day-Fund-Deposit-Rules-Report_ARTREADY_v9.pdf?la=en.

STATE TOBACCO TAXES GENERATING SMUGGLING RINGS: SENATE HEARING

With states cracking down on cigarette smuggling, the Senate Finance Committee held a hearing last Tuesday entitled "Tobacco: Taxes Owed, Avoided, and Evaded." The hearing focused on a variety of tobacco-related tax subjects, including tax evasion, counterfeiting, and black markets transactions, which deny federal, state, and local governments important revenue. Per capita consumption of tobacco products reached its highest level in the 1950's, and has been on a steady decline ever since, leaving tobacco excise taxes as a poor source of sustainable revenue.

In his testimony, hearing panelist Scott Drenkard, economist and manager of state projects at the Tax Foundation, discussed at length the problems facing the ztates as tobacco use drops, but taxes increase:

> "In our research we have found evidence of substantial tobacco smuggling from low to high tax jurisdictions, violent crime, theft of tobacco and tobacco tax stamps, corruption of law-enforcement officers, and even funding of terrorist organizations through crime rings. The Mackinac Center for Public Policy estimates that 56.9 percent of the cigarettes consumed in New York State in 2012 were smuggled into the state from other locales. Other states with substantial smuggling problems include Arizona (51.5 percent), New Mexico (48.1 percent), Washington (48.0 percent) and Wisconsin (34.6 percent). In addition to smuggling authentic cigarettes from low to high tax jurisdictions, criminals sometimes skirt the legal market altogether and counterfeit name brand products and state tobacco tax stamps."

The full hearing can be viewed at http://www.finance.senate.gov/hearings/hearing/?id=ba5bf7a7-5056-a032-52e6-3d9d27bdbdc3.

CONGRESS ENTERS SUMMER RECESS

With the mid-term elections approaching fast, Congress enters its lengthy summer recess by hitting the campaign trail. The House is scheduled to return on September 8, while the Senate has not set a return date. The next *Washington Update* will be issued on September 15.

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