

Intergovernmental Transfer (IGT) Guidelines General Principles & Selected Examples

General Guidance

The following general principles represent an attempt to provide high level guidance to entities seeking to generate state match, (i.e., IGT) for funding the 1115 Medicaid waiver. The principles which follow are not intended to be exhaustive. Individual entities involved in arranging financing for Waiver activities are in the best position to know all of the relevant facts to determine if such an arrangement is legal and workable. As such, it is vital that all potential Waiver participants discuss IGT arrangements with their attorneys.

- I. The 1115 Medicaid waiver provides for supplemental funding to certain Medicaid providers in Texas in the form of two new pools: the Uncompensated Care (UC) Pool and the Delivery System Reform Incentive Payment (DSRIP) Pool. In order to receive that supplemental funding, some governmental entity must provide funding to HHSC which will then have those funds “matched” by the federal government and sent to the Medicaid provider designated by the funding governmental entity. The process by which funds are transferred to HHSC for the purpose of a federal match is called an “intergovernmental transfer” or “IGT.”

- II. **Who can transfer funds?** Funds can be transferred by:
 - a. any unit of local government (including, but not limited to, a public hospital, hospital district, county, city, or Local Mental Health Authority); or
 - b. any state agency.

- III. **What funds can be transferred?** There are state and federal restrictions on the types of funds that can be transferred for Waiver purposes. A governmental entity can transfer funds to HHSC if:
 - a. the funds are in the governmental entity’s administrative control;
 - b. the funds are not federal funds;
 - c. the funds are public funds, not private funds;
 - d. there is no statutory or constitutional provision that requires the funds to be used solely for another purpose or prohibits the transfer;
 - e. the transfer satisfies a statutory or constitutional requirement that relates to the funds, including Article III, section 52 of the Texas Constitution or the state General Appropriations Act; and
 - f. the funds are not impermissible provider-related donations.

- IV. **What is a provider-related donation?** A provider-related donation is:
 - a. a voluntary donation from a non-governmentally operated health care provider or entity related to a private health care provider;

- b. in cash or in kind;
 - c. made to a governmental entity, whether or not that entity provides for an IGT; and
 - d. is directly or indirectly related to a Medicaid payment or other payment to providers.
- V. **When does a transfer violate provider-related donations regulations?** Federal regulations prohibit private health care providers from making donations directly to HHSC or indirectly through another government agency to HHSC. However, federal law recognizes that private providers can undertake to support community activities. Local governmental entities may take that support into account when determining to make an IGT that will be used to fund Medicaid payments to those providers. It is vital that, in such a situation, the existence or amount of an IGT is not contingent upon the existence of such community support or the amount of the community support.

Sources:

Federal Law & Regulations:

[42 USC § 1396a](#)

[42 CFR §433.50, 433.52, 433.54, 433.57, 433.66, 433.67](#)

State Law & Administrative Rules:

[1 TAC §355.8201](#)

[1 TAC §355.8202](#)