

AN ACT

RELATING TO TAXATION; PROVIDING AN INCOME TAX DEDUCTION FOR CERTAIN UNREIMBURSED OR UNCOMPENSATED MEDICAL CARE EXPENSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Income Tax Act is enacted to read:

"DEDUCTION--UNREIMBURSED OR UNCOMPENSATED MEDICAL CARE EXPENSES.--

A. A taxpayer may claim a deduction from net income in an amount determined pursuant to Subsection B of this section for medical care expenses paid during the taxable year for medical care of the taxpayer, the taxpayer's spouse or a dependent if the expenses are not reimbursed or compensated for by insurance or otherwise and have not been included in the taxpayer's itemized deductions, as defined in Section 63 of the Internal Revenue Code, for the taxable year.

B. The deduction provided in Subsection A of this section may be claimed in an amount equal to the following percentage of medical care expenses paid during the taxable year based on the taxpayer's filing status and adjusted gross income as follows:

(1) for surviving spouses and married individuals filing joint returns:

If adjusted gross income is:	The following percent of medical care expenses paid may be
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deducted:

Not over \$30,000	25 percent
More than \$30,000 but not more than \$70,000	15 percent
Over \$70,000	10 percent;

(2) for single individuals and married individuals filing separate returns:

If adjusted gross income is:                   The following percent of medical care expenses paid may be deducted:

Not over \$15,000	25 percent
More than \$15,000 but not more than \$35,000	15 percent
Over \$35,000	10 percent;

and

(3) for heads of household:

If adjusted gross income is:                   The following percent of medical care expenses paid may be deducted:

Not over \$20,000	25 percent
More than \$20,000 but not more than \$50,000	15 percent
Over \$50,000	10 percent.

C. As used in this section:

(1) "dependent" means dependent as defined in Section 152 of the Internal Revenue Code;

(2) "health care facility" means a hospital, outpatient facility, diagnostic and treatment center, rehabilitation center, free-standing hospice or

other similar facility at which medical care is provided;

(3) "medical care" means the diagnosis, cure, mitigation, treatment or prevention of disease or for the purpose of affecting any structure or function of the body;

(4) "medical care expenses" means amounts paid for:

(a) the diagnosis, cure, mitigation, treatment or prevention of disease or for the purpose of affecting any structure or function of the body, excluding cosmetic surgery, if provided by a physician or in a health care facility;

(b) prescribed drugs or insulin;

(c) qualified long-term care services as defined in Section 7702B(c) of the Internal Revenue Code;

(d) insurance covering medical care, including amounts paid as premiums under part B of Title XVIII of the Social Security Act or for a qualified long-term care insurance contract defined in Section 7702B(b) of the Internal Revenue Code, if the insurance or other amount is paid from income included in the taxpayer's adjusted gross income for the taxable year;

(e) nursing services, regardless of where the services are rendered, if provided by a practical nurse or a professional nurse licensed to practice in the state pursuant to the Nursing Practice Act;

(f) specialized treatment or the use of special therapeutic devices if the treatment or device is

prescribed by a physician and the patient can show that the expense was incurred primarily for the prevention or alleviation of a physical or mental defect or illness; and

(g) care in an institution other than a hospital, such as a sanitarium or rest home, if the principal reason for the presence of the person in the institution is to receive the medical care available; provided that if the meals and lodging are furnished as a necessary part of such care, the cost of the meals and lodging are "medical care expenses";

(5) "physician" means a medical doctor, osteopathic physician, dentist, podiatrist, chiropractic physician or psychologist licensed or certified to practice in New Mexico; and

(6) "prescribed drug" means a drug or biological that requires a prescription of a physician for its use by an individual."

Section 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2000.

Section 3. CONTINGENT EFFECTIVE DATE.--The provisions of this act shall not become effective unless Senate Bill 33 or similar bill of the second special session of the forty-fourth legislature is enacted into law and the General Appropriation Act of 2000 passed by the second special session of the forty-fourth legislature and enacted into law includes an appropriation of four million nine hundred seventy-five thousand dollars (\$4,975,000) for the sole

purpose of implementing an amendment to the state medicaid plan making eligible an individual who is the parent of a child under nineteen years of age who resides with that parent and whose family income does not exceed sixty percent of the federal poverty guidelines. \_\_\_\_\_

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