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HOUSE BILL 375

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Edward C. Sandoval

AN ACT

RELATING TO TAXATION; EXPANDING THE TYPES OF RECEIPTS THAT MAY
BE DEDUCTED FOR SERVICES PROVIDED BY A HEALTH CARE
PRACTITIONER.

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

SECTION 1. Section 7-9-93 NMSA 1978 (being Laws 2004,
Chapter 116, Section 6, as amended) is amended to read:

"7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR
SERVICES PROVIDED BY HEALTH CARE PRACTITIONER.--

A. Receipts that are otherwise deductible pursuant
to another section of the Gross Receipts and Compensating Tax
Act shall not be deducted from gross receipts pursuant to this
section. Receipts from fee-for-service payments by a health
care insurer shall not be deducted from gross receipts pursuant
to this section.

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1 ~~[A.]~~ B. Receipts from payments by a managed health
2 care provider or health care insurer for commercial contract
3 services or medicare part C services provided by a health care
4 practitioner ~~[that are not otherwise deductible pursuant to~~
5 ~~another provision of the Gross Receipts and Compensating Tax~~
6 ~~Act]~~ may be deducted from gross receipts; provided that the
7 services are within the scope of practice of the person
8 providing the service. ~~[Receipts from fee-for-service payments~~
9 ~~by a health care insurer may not be deducted from gross~~
10 ~~receipts. The deduction provided by this section shall be~~
11 ~~separately stated by the taxpayer.]~~

12 C. Receipts from payments of copayments or
13 deductibles by an insured or enrollee in a managed care health
14 plan for health care services provided by a health care
15 practitioner may be deducted from gross receipts; provided that
16 the services are within the scope of practice of the person
17 providing the service.

18 D. The purpose of the deductions provided in this
19 section is to encourage health care practitioners to locate and
20 remain in New Mexico and to reduce the tax burden paid by
21 health care practitioners.

22 E. The department shall annually report to the
23 revenue stabilization and tax policy committee the aggregate
24 amount of deductions taken pursuant to this section, the number
25 of taxpayers claiming each of the deductions and any other

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1 information that is necessary to determine that the deductions
2 are performing the purposes for which they are enacted.

3 F. A taxpayer deducting gross receipts pursuant to
4 this section shall report the amount deducted separately for
5 each deduction provided in this section and attribute the
6 amount of the deduction to the appropriate authorization
7 provided in this section in a manner required by the department
8 that facilitates the evaluation by the legislature of the
9 benefit to the state of these deductions.

10 [~~B-~~] G. For the purposes of this section:

11 (1) "commercial contract services" means
12 health care services performed by a health care practitioner at
13 negotiated fee rates pursuant to a contract with a managed
14 health care provider or health care insurer other than those
15 health care services provided for medicare patients pursuant to
16 Title 18 of the federal Social Security Act or for medicaid
17 patients pursuant to Title 19 or Title 21 of the federal Social
18 Security Act;

19 (2) "copayment" means the per visit amount
20 required to be paid by an insured or enrollee to a health care
21 practitioner for health care services pursuant to the terms of
22 the insured or enrollee's managed care health plan;

23 (3) "deductible" means the amount of covered
24 charges an insured or enrollee is required to pay in a plan
25 year before the insured or enrollee's managed care health plan

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1 begins to pay for applicable covered charges;

2 (4) "fee-for-service" means payment for health
3 care services by a health care insurer for covered charges
4 under an indemnity insurance plan;

5 ~~(2)~~ (5) "health care insurer" means a person
6 that ~~(a)~~ has a valid certificate of authority in good
7 standing pursuant to the New Mexico Insurance Code to act as an
8 insurer, health maintenance organization or nonprofit health
9 care plan or prepaid dental plan; ~~and~~

10 ~~(b) contracts to reimburse licensed~~
11 ~~health care practitioners for providing basic health services~~
12 ~~to enrollees at negotiated fee rates;~~

13 ~~(3)~~ (6) "health care practitioner" means:

14 (a) a chiropractic physician licensed
15 pursuant to the provisions of the Chiropractic Physician
16 Practice Act;

17 (b) a dentist or dental hygienist
18 licensed pursuant to the Dental Health Care Act;

19 (c) a doctor of oriental medicine
20 licensed pursuant to the provisions of the Acupuncture and
21 Oriental Medicine Practice Act;

22 (d) an optometrist licensed pursuant to
23 the provisions of the Optometry Act;

24 (e) an osteopathic physician licensed
25 pursuant to the provisions of Chapter 61, Article 10 NMSA 1978

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1 or an osteopathic physician's assistant licensed pursuant to
2 the provisions of the Osteopathic Physicians' Assistants Act;

3 (f) a physical therapist licensed
4 pursuant to the provisions of the Physical Therapy Act;

5 (g) a physician or physician assistant
6 licensed pursuant to the provisions of Chapter 61, Article 6
7 NMSA 1978;

8 (h) a podiatrist licensed pursuant to
9 the provisions of the Podiatry Act;

10 (i) a psychologist licensed pursuant to
11 the provisions of the Professional Psychologist Act;

12 (j) a registered lay midwife registered
13 by the department of health;

14 (k) a registered nurse or licensed
15 practical nurse licensed pursuant to the provisions of the
16 Nursing Practice Act;

17 (l) a registered occupational therapist
18 licensed pursuant to the provisions of the Occupational Therapy
19 Act;

20 (m) a respiratory care practitioner
21 licensed pursuant to the provisions of the Respiratory Care
22 Act;

23 (n) a speech-language pathologist or
24 audiologist licensed pursuant to the Speech-Language Pathology,
25 Audiology and Hearing Aid Dispensing Practices Act;

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1 (o) a professional clinical mental
2 health counselor, marriage and family therapist or professional
3 art therapist licensed pursuant to the provisions of the
4 Counseling and Therapy Practice Act who has obtained a master's
5 degree or a doctorate;

6 (p) an independent social worker
7 licensed pursuant to the provisions of the Social Work Practice
8 Act; and

9 (q) a clinical laboratory that is
10 accredited pursuant to 42 U.S.C. Section 263a but that is not a
11 laboratory in a physician's office or in a hospital defined
12 pursuant to 42 U.S.C. Section 1395x;

13 (7) "managed care health plan" means a health
14 care plan provided by a managed health care provider;

15 [~~4~~] (8) "managed health care provider" means
16 a person that provides for the delivery of comprehensive basic
17 health care services and medically necessary services to
18 individuals enrolled in a plan through its own employed health
19 care providers or by contracting with selected or participating
20 health care providers. "Managed health care provider" includes
21 only those persons that provide comprehensive basic health care
22 services to enrollees on a contract basis, including the
23 following:

- 24 (a) health maintenance organizations;
25 (b) preferred provider organizations;

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- 1 (c) individual practice associations;
2 (d) competitive medical plans;
3 (e) exclusive provider organizations;
4 (f) integrated delivery systems;
5 (g) independent physician-provider
6 organizations;
7 (h) physician hospital-provider
8 organizations; and
9 (i) managed care services organizations;
10 and

11 [~~(5)~~] (9) "medicare part C services" means
12 services performed pursuant to a contract with a managed health
13 care provider for medicare patients pursuant to Title 18 of the
14 federal Social Security Act."

15 SECTION 2. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2013.