

HOUSE BILL 207

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

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AN ACT

RELATING TO TAXATION; EXPANDING THE TYPES OF RECEIPTS THAT MAY BE DEDUCTED FROM GROSS RECEIPTS FOR COMMERCIAL CONTRACT AND MEDICARE PART C SERVICES PROVIDED BY A HEALTH CARE PRACTITIONER; PROVIDING FOR DELAYED REPEAL.

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. The purpose of the deductions for payments made to a health care practitioner by a managed care organization or health insurer for commercial contract services or medicare part C services and for copayments and deductibles paid by an insured or enrollee to a health care practitioner pursuant to

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1 the terms of the insured's health insurance plan or enrollee's
2 managed care plan is to retain health care practitioners
3 currently providing commercial contract and medicare part C
4 services in the state and to attract additional health care
5 practitioners to provide commercial contract and medicare part
6 C services in New Mexico.

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

18 C. Receipts from copayments or deductibles paid by
19 an insured or enrollee to a health care practitioner for
20 commercial contract services pursuant to the terms of the
21 insured's health insurance plan or the enrollee's managed care
22 health plan may be deducted from gross receipts.

23 ~~[B.]~~ D. For the purposes of this section:

24 (1) "commercial contract services" means
25 health care services performed by a health care practitioner at

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1 negotiated fee rates pursuant to a contract with a managed
2 [~~health care provider~~] care organization or health care insurer
3 other than those health care services provided [~~for~~] to
4 medicare patients pursuant to Title 18 of the federal Social
5 Security Act or [~~for~~] to medicaid patients pursuant to Title 19
6 or Title 21 of the federal Social Security Act;

7 (2) "copayment" means the per visit amount
8 required to be paid by an insured or enrollee to a health care
9 practitioner for commercial contract services pursuant to the
10 terms of the insured's health insurance plan or enrollee's
11 managed care health plan;

12 (3) "deductible" means the amount of covered
13 charges an insured or enrollee is required to pay in a plan
14 year for commercial contract services before the insured's
15 health insurance plan or enrollee's managed care health plan
16 begins to pay for applicable covered charges;

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

20 [+2] (5) "health care insurer" means a person
21 that:

22 (a) has a valid certificate of authority
23 in good standing pursuant to the New Mexico Insurance Code to
24 act as an insurer, health maintenance organization or nonprofit
25 health care plan or prepaid dental plan; and

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1 (b) contracts to reimburse licensed
2 health care practitioners for providing basic health services
3 to insureds or enrollees at negotiated fee rates;

4 [~~(3)~~] (6) "health care practitioner" means:

5 [~~(a) a chiropractic physician licensed~~
6 ~~pursuant to the provisions of the Chiropractic Physician~~
7 ~~Practice Act;~~

8 [~~(b) a dentist or dental hygienist~~
9 ~~licensed pursuant to the Dental Health Care Act;~~

10 [~~(c) a doctor of oriental medicine~~
11 ~~licensed pursuant to the provisions of the Acupuncture and~~
12 ~~Oriental Medicine Practice Act;~~

13 [~~(d) an optometrist licensed pursuant to~~
14 ~~the provisions of the Optometry Act;~~

15 [~~(e) an osteopathic physician licensed~~
16 ~~pursuant to the provisions of Chapter 61, Article 10 NMSA 1978~~
17 ~~or an osteopathic physician's assistant licensed pursuant to~~
18 ~~the provisions of the Osteopathic Physicians' Assistants Act;~~

19 [~~(f) a physical therapist licensed~~
20 ~~pursuant to the provisions of the Physical Therapy Act;~~

21 [~~(g) a physician or physician assistant~~
22 ~~licensed pursuant to the provisions of Chapter 61, Article 6~~
23 ~~NMSA 1978;~~

24 [~~(h) a podiatrist licensed pursuant to~~
25 ~~the provisions of the Podiatry Act;~~

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1 ~~(i) a psychologist licensed pursuant to~~
2 ~~the provisions of the Professional Psychologist Act;~~

3 ~~(j) a registered lay midwife registered~~
4 ~~by the department of health;~~

5 ~~(k) a registered nurse or licensed~~
6 ~~practical nurse licensed pursuant to the provisions of the~~
7 ~~Nursing Practice Act;~~

8 ~~(l) a registered occupational therapist~~
9 ~~licensed pursuant to the provisions of the Occupational Therapy~~
10 ~~Act;~~

11 ~~(m) a respiratory care practitioner~~
12 ~~licensed pursuant to the provisions of the Respiratory Care~~
13 ~~Act;~~

14 ~~(n) a speech-language pathologist or~~
15 ~~audiologist licensed pursuant to the Speech-Language Pathology,~~
16 ~~Audiology and Hearing Aid Dispensing Practices Act;~~

17 ~~(o) a professional clinical mental~~
18 ~~health counselor, marriage and family therapist or professional~~
19 ~~art therapist licensed pursuant to the provisions of the~~
20 ~~Counseling and Therapy Practice Act who has obtained a master's~~
21 ~~degree or a doctorate;~~

22 ~~(p) an independent social worker~~
23 ~~licensed pursuant to the provisions of the Social Work Practice~~
24 ~~Act; and~~

25 ~~(q)]~~ (a) a person licensed pursuant to

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1 the provisions of the Optometry Act;

2 (b) a person licensed, registered or
3 certified pursuant to the provisions of the Nursing Practice
4 Act;

5 (c) a person licensed or certified
6 pursuant to the provisions of the Chiropractic Physician
7 Practice Act;

8 (d) a person licensed or certified
9 pursuant to the Dental Health Care Act;

10 (e) a person licensed pursuant to the
11 provisions of the Medical Practice Act;

12 (f) a person licensed pursuant to the
13 provisions of the Anesthesiologist Assistants Act;

14 (g) a person licensed pursuant to the
15 provisions of the Podiatry Act;

16 (h) a person licensed pursuant to the
17 provisions of the Polysomnography Practice Act;

18 (i) a person licensed pursuant to the
19 provisions of the Professional Psychologist Act;

20 (j) a person licensed or registered
21 pursuant to the provisions of the Counseling and Therapy
22 Practice Act;

23 (k) an osteopathic physician licensed
24 pursuant to the provisions of Chapter 61, Article 10 NMSA 1978
25 or a person licensed pursuant to the provisions of the

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1 Osteopathic Physicians' Assistants Act;

2 (l) a person licensed or registered
3 pursuant to the provisions of the Pharmacy Act;

4 (m) a person licensed, registered or
5 certified pursuant to the provisions of the Occupational
6 Therapy Act;

7 (n) a person licensed pursuant to the
8 provisions of the Respiratory Care Act;

9 (o) a person licensed pursuant to the
10 provisions of the Massage Therapy Practice Act;

11 (p) a person licensed pursuant to the
12 provisions of the Physical Therapy Act;

13 (q) a person licensed pursuant to the
14 provisions of the Naprapathic Practice Act;

15 (r) a person licensed pursuant to the
16 provisions of the Acupuncture and Oriental Medicine Practice
17 Act;

18 (s) a person licensed pursuant to the
19 Speech-Language Pathology, Audiology and Hearing Aid Dispensing
20 Practices Act;

21 (t) a person licensed, certified or
22 credentialed pursuant to the Medical Imaging and Radiation
23 Therapy Health and Safety Act;

24 (u) a person registered by the
25 department of health as a midwife;

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1 (v) a person licensed pursuant to the
2 provisions of the Social Work Practice Act;

3 (w) a person licensed or certified
4 pursuant to the provisions of the Emergency Medical Services
5 Act; and

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

10 [~~(4) "managed health care provider"~~] (7)
11 "managed care organization" means a person that provides for
12 the delivery of comprehensive basic health care services and
13 medically necessary services to individuals enrolled in a plan
14 through its own employed health care providers or by
15 contracting with selected or participating health care
16 providers. "Managed [~~health care provider~~] care organization"
17 includes only those persons that provide comprehensive basic
18 health care services to enrollees on a contract basis,
19 including the following:

- 20 (a) health maintenance organizations;
- 21 (b) preferred provider organizations;
- 22 (c) individual practice associations;
- 23 (d) competitive medical plans;
- 24 (e) exclusive provider organizations;
- 25 (f) integrated delivery systems;

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- 1 (g) independent physician-provider
2 organizations;
3 (h) physician hospital-provider
4 organizations; and
5 (i) managed care services organizations;
6 [~~and~~]

7 (8) "managed health care plan" means a health
8 care plan offered by a managed care organization that provides
9 for the delivery of comprehensive basic health care services
10 and medically necessary services to individuals enrolled in the
11 plan other than those services provided to medicare patients
12 pursuant to Title 18 of the federal Social Security Act or to
13 medicaid patients pursuant to Title 19 or Title 21 of the
14 federal Social Security Act; and

15 [~~(5)~~] (9) "medicare part C services" means
16 services performed pursuant to a contract with a managed
17 [~~health care provider~~] care organization for medicare patients
18 pursuant to Title 18 of the federal Social Security Act.

19 E. The economic development department shall:

20 (1) request the New Mexico center for health
21 workforce analysis to collect data to be used to assess the
22 effectiveness of the deductions authorized by this section in
23 the retention and recruitment of health care practitioners who
24 provide commercial contract services and medicare part C
25 services; and

.195508.3

1 (2) report to the interim legislative revenue
2 stabilization and tax policy committee and to the legislative
3 finance committee by November of each year on the effectiveness
4 of the deductions authorized by this section in the retention
5 and recruitment of health care practitioners who provide
6 commercial contract services and medicare part C services.

7 F. Receipts from fee-for-service payments by a
8 health care insurer shall not be deducted from gross receipts
9 pursuant to this section."

10 SECTION 2. DELAYED REPEAL.--Section 7-9-93 NMSA 1978
11 (being Laws 2004, Chapter 116, Section 6, as amended by Section
12 1 of this act) is repealed effective January 1, 2020.

13 SECTION 3. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2014.