

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 344

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO TAXATION; REMOVING THE SUNSET DATE OF A GROSS
RECEIPTS TAX DEDUCTION FOR RECEIPTS FROM COPAYMENTS OR
DEDUCTIBLES PAID BY AN INSURED OR ENROLLEE TO A HEALTH CARE
PRACTITIONER OR AN ASSOCIATION OF HEALTH CARE PRACTITIONERS;
PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR THE SALE OF
MEDICAL EQUIPMENT, SUPPLIES AND DRUGS; PROVIDING A GROSS
RECEIPTS TAX DEDUCTION TO RECEIPTS FROM A PATIENT PAID TO A
HEALTH CARE PRACTITIONER OR AN ASSOCIATION OF HEALTH CARE
PRACTITIONERS FOR HEALTH CARE SERVICES THAT ARE NOT PERFORMED
PURSUANT TO A CONTRACT WITH A MANAGED CARE ORGANIZATION OR
HEALTH CARE INSURER; PROVIDING THAT A HEALTH CARE PROVIDER
RECEIVING MEDICAID REIMBURSEMENT SHALL BE REIMBURSED FOR ALL
APPLICABLE GROSS RECEIPTS TAXES THAT THE PROVIDER IS REQUIRED
TO PAY.

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

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

4 "7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR
5 SERVICES PROVIDED BY HEALTH CARE PRACTITIONER OR ASSOCIATION OF
6 HEALTH CARE PRACTITIONERS.--

7 A. Receipts of a health care practitioner or an
8 association of health care practitioners for commercial
9 contract services or medicare part C services paid by a managed
10 care organization or health care insurer may be deducted from
11 gross receipts if the services are within the scope of practice
12 of the health care practitioner providing the service.
13 Receipts from fee-for-service payments by a health care insurer
14 may not be deducted from gross receipts pursuant to this
15 section.

16 B. [~~Prior to July 1, 2028~~] Receipts from a
17 copayment or deductible paid by an insured or enrollee to a
18 health care practitioner or an association of health care
19 practitioners for commercial contract services pursuant to the
20 terms of the insured's health insurance plan or enrollee's
21 managed care health plan may be deducted from gross receipts if
22 the services are within the scope of practice of the health
23 care practitioner providing the service.

24 C. The deductions provided by this section shall be
25 applied only to gross receipts remaining after all other

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1 allowable deductions available under the Gross Receipts and
2 Compensating Tax Act have been taken.

3 D. A taxpayer allowed a deduction pursuant to this
4 section shall report the amount of the deduction separately in
5 a manner required by the department.

6 E. ~~[The department shall compile an annual report~~
7 ~~on]~~ The deductions provided by this section ~~[that]~~ shall
8 ~~[include]~~ be included in the tax expenditure budget pursuant to
9 Section 7-1-84 NMSA 1978, including the number of taxpayers
10 that claimed ~~[the deductions]~~ each deduction, the aggregate
11 amount of deductions claimed and any other information
12 necessary to evaluate the cost and effectiveness of the
13 deductions. ~~[The department shall present the report to the~~
14 ~~revenue stabilization and tax policy committee and the~~
15 ~~legislative finance committee with an analysis of the cost of~~
16 ~~the deductions.]~~

17 F. As used in this section:

18 (1) "association of health care practitioners"
19 means a corporation, unincorporated business entity or other
20 legal entity organized by, owned by or employing one or more
21 health care practitioners; provided that the entity is not:

22 (a) an organization granted exemption
23 from the federal income tax by the United States commissioner
24 of internal revenue as organizations described in Section
25 501(c)(3) of the United States Internal Revenue Code of 1986,

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1 as that section may be amended or renumbered; or

2 (b) a health maintenance organization or
3 a hospital, hospice, nursing home or an entity that is solely
4 an outpatient facility or intermediate care facility licensed
5 [~~pursuant to the Public Health Act~~] by the health care
6 authority;

7 (2) "commercial contract services" means
8 health care services performed by a health care practitioner
9 pursuant to a contract with a managed care organization or
10 health care insurer other than those health care services
11 provided for medicare patients pursuant to Title 18 of the
12 federal Social Security Act or for medicaid patients pursuant
13 to Title 19 or Title 21 of the federal Social Security Act;

14 (3) "copayment" means [~~a fixed dollar~~] an
15 amount that a health care insurer or managed care health plan
16 requires an insured or enrollee to pay upon incurring an
17 expense for receiving medical services;

18 (4) "deductible" means the amount of covered
19 charges an insured or enrollee is required to pay in a plan
20 year for commercial contract services before the insured's
21 health insurance plan or enrollee's managed care health plan
22 begins to pay for applicable covered charges;

23 (5) "fee-for-service" means payment for health
24 care services by a health care insurer for covered charges
25 under an indemnity insurance plan;

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1 (6) "health care insurer" means a person that:

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

6 (b) contracts to reimburse licensed
7 health care practitioners for providing basic health services
8 to enrollees at negotiated fee rates;

9 (7) "health care practitioner" means:

10 (a) a chiropractic physician licensed
11 pursuant to the provisions of the Chiropractic Physician
12 Practice Act;

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

15 (c) a doctor of oriental medicine
16 licensed pursuant to the provisions of the Acupuncture and
17 Oriental Medicine Practice Act;

18 (d) an optometrist licensed pursuant to
19 the provisions of the Optometry Act;

20 (e) an osteopathic physician licensed
21 pursuant to the provisions of the Medical Practice Act;

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

24 (g) a physician or physician assistant
25 licensed pursuant to the provisions of the Medical Practice

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1 Act;

2 (h) a podiatric physician licensed
3 pursuant to the provisions of the Podiatry Act;

4 (i) a psychologist licensed pursuant to
5 the provisions of the Professional Psychologist Act;

6 (j) a registered lay midwife registered
7 by the department of health;

8 (k) a registered nurse or licensed
9 practical nurse licensed pursuant to the provisions of the
10 Nursing Practice Act;

11 (l) a registered occupational therapist
12 licensed pursuant to the provisions of the Occupational Therapy
13 Act;

14 (m) a respiratory care practitioner
15 licensed pursuant to the provisions of the Respiratory Care
16 Act;

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

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

25 (p) an independent social worker

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1 licensed pursuant to the provisions of the Social Work Practice
2 Act; and

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

7 (8) "managed care health 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;

15 (9) "managed care organization" means a person
16 that provides for the delivery of comprehensive basic health
17 care services and medically necessary services to individuals
18 enrolled in a plan through its own employed health care
19 providers or by contracting with selected or participating
20 health care providers. "Managed care organization" 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 (10) "medicare part C services" means services
- 12 performed pursuant to a contract with a managed health care
- 13 provider for medicare patients pursuant to Title 18 of the
- 14 federal Social Security Act."

15 SECTION 2. A new section of the Gross Receipts and
16 Compensating Tax Act, Section 7-9-93.1 NMSA 1978, is enacted to
17 read:

18 "7-9-93.1. [NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--
19 CERTAIN RECEIPTS FOR SERVICES PROVIDED BY HEALTH CARE
20 PRACTITIONER OR ASSOCIATION OF HEALTH CARE PRACTITIONERS EXCEPT
21 FOR MEDICAID PATIENTS--MEDICAL EQUIPMENT, SUPPLIES AND DRUGS.--

22 A. Except for those receipts that may be deducted
23 from gross receipts pursuant to Section 7-9-93 NMSA 1978,
24 receipts of a health care practitioner or an association of
25 health care practitioners for health care services, other than

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1 services provided for medicaid patients pursuant to Title 19 or
2 Title 21 of the federal Social Security Act, performed by a
3 health care practitioner may be deducted from gross receipts if
4 the services are within the scope of practice of the health
5 care practitioner providing the service.

6 B. Receipts from the sale of medical equipment and
7 medical supplies to a health care practitioner or an
8 association of health care practitioners may be deducted from
9 gross receipts if the medical equipment and medical supplies
10 are regularly used within the practice of the health care
11 practitioner or association of health care practitioners.

12 C. Receipts from the sale of medical drugs to a
13 health care practitioner or an association of health care
14 practitioners may be deducted from gross receipts if the
15 medical drugs are regularly used for the treatment of patients
16 within the practice of the health care practitioner or
17 association of health care practitioners.

18 D. Receipts from a patient to a health care
19 practitioner or an association of health care practitioners for
20 health care services that are not performed pursuant to a
21 contract with a managed care organization or health care
22 insurer may be deducted from gross receipts if the services are
23 within the scope of practice of the health care practitioner
24 providing the service.

25 E. The deductions provided by this section shall be

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1 applied only to gross receipts remaining after all other
2 allowable deductions available under the Gross Receipts and
3 Compensating Tax Act have been taken.

4 F. A taxpayer allowed a deduction pursuant to this
5 section shall report the amount of the deduction separately in
6 a manner required by the department.

7 G. The deduction provided by this section shall be
8 included in the tax expenditure budget pursuant to Section
9 7-1-84 NMSA 1978, including the number of taxpayers that
10 claimed each deduction, the aggregate amount of deductions
11 claimed and any other information necessary to evaluate the
12 cost and effectiveness of the deductions.

13 H. As used in this section:

14 (1) "association of health care practitioners"
15 means a corporation, unincorporated business entity or other
16 legal entity organized by, owned by or employing one or more
17 health care practitioners; provided that the entity is not:

18 (a) an organization granted exemption
19 from the federal income tax by the United States commissioner
20 of internal revenue as organizations described in Section
21 501(c)(3) of the United States Internal Revenue Code of 1986,
22 as that section may be amended or renumbered; or

23 (b) a health maintenance organization or
24 a hospital, hospice, nursing home or an entity that is solely
25 an outpatient facility or intermediate care facility licensed

1 by the health care authority;

2 (2) "copayment" means an amount that a health
3 care insurer or managed care health plan requires an insured or
4 enrollee to pay upon incurring an expense for receiving medical
5 services;

6 (3) "deductible" means the amount of covered
7 charges an insured or enrollee is required to pay in a plan
8 year for commercial contract services before the insured's
9 health insurance plan or enrollee's managed care health plan
10 begins to pay for applicable covered charges;

11 (4) "health care insurer" means a person that:

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

16 (b) contracts to reimburse licensed
17 health care practitioners for providing basic health services
18 to enrollees at negotiated fee rates;

19 (5) "health care practitioner" means:

20 (a) a chiropractic physician licensed
21 pursuant to the provisions of the Chiropractic Physician
22 Practice Act;

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

25 (c) a doctor of oriental medicine

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1 licensed pursuant to the provisions of the Acupuncture and
2 Oriental Medicine Practice Act;

3 (d) an optometrist licensed pursuant to
4 the provisions of the Optometry Act;

5 (e) an osteopathic physician licensed
6 pursuant to the provisions of the Medical Practice Act;

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

9 (g) a physician or physician assistant
10 licensed pursuant to the provisions of the Medical Practice
11 Act;

12 (h) a podiatric physician licensed
13 pursuant to the provisions of the Podiatry Act;

14 (i) a psychologist licensed pursuant to
15 the provisions of the Professional Psychologist Act;

16 (j) a registered lay midwife registered
17 by the department of health;

18 (k) a registered nurse or licensed
19 practical nurse licensed pursuant to the provisions of the
20 Nursing Practice Act;

21 (l) a registered occupational therapist
22 licensed pursuant to the provisions of the Occupational Therapy
23 Act;

24 (m) a respiratory care practitioner
25 licensed pursuant to the provisions of the Respiratory Care

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1 Act;

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

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

10 (p) an independent social worker
11 licensed pursuant to the provisions of the Social Work Practice
12 Act;

13 (q) a clinical laboratory that is
14 accredited pursuant to 42 U.S.C. Section 263a but that is not a
15 laboratory in a physician's office or in a hospital defined
16 pursuant to 42 U.S.C. Section 1395x; and

17 (r) a naturopathic doctor licensed
18 pursuant to the provisions of the Naturopathic Doctors'
19 Practice Act;

20 (6) "managed care health plan" means a health
21 care plan offered by a managed care organization that provides
22 for the delivery of comprehensive basic health care services
23 and medically necessary services to individuals enrolled in the
24 plan other than those services provided to medicare patients
25 pursuant to Title 18 of the federal Social Security Act or to

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1 medicaid patients pursuant to Title 19 or Title 21 of the
2 federal Social Security Act;

3 (7) "managed care organization" means a person
4 that provides for the delivery of comprehensive basic health
5 care services and medically necessary services to individuals
6 enrolled in a plan through its own employed health care
7 providers or by contracting with selected or participating
8 health care providers. "Managed care organization" includes
9 only those persons that provide comprehensive basic health care
10 services to enrollees on a contract basis, including the
11 following:

- 12 (a) health maintenance organizations;
- 13 (b) preferred provider organizations;
- 14 (c) individual practice associations;
- 15 (d) competitive medical plans;
- 16 (e) exclusive provider organizations;
- 17 (f) integrated delivery systems;
- 18 (g) independent physician-provider
19 organizations;
- 20 (h) physician hospital-provider
21 organizations; and
- 22 (i) managed care services organizations;

23 (8) "medical equipment and supplies" means
24 items or devices that are primarily and customarily used to
25 serve a medical purpose for a course of medical treatment; and

1 (9) "medicare part C services" means services
2 performed pursuant to a contract with a managed health care
3 provider for medicare patients pursuant to Title 18 of the
4 federal Social Security Act."

5 SECTION 3. A new section of the Public Assistance Act is
6 enacted to read:

7 "[NEW MATERIAL] ITEMIZATION OF GROSS RECEIPTS TAXES IN
8 MEDICAID REIMBURSEMENT RATES.--

9 A. When a health care provider contracts with a
10 managed care organization for medicaid reimbursement for
11 providing health care services to a recipient, the managed care
12 organization shall specify the applicable gross receipts taxes
13 that are to be included in the reimbursement rate for each
14 health care service.

15 B. As used in this section:

16 (1) "managed care organization" means a person
17 eligible to enter into risk-based prepaid capitation agreements
18 with the health care authority to provide health care and
19 related services; and

20 (2) "medicaid" means the federal-state program
21 administered by the authority pursuant to Title 19 or Title 21
22 of the federal Social Security Act."

23 SECTION 4. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2025.

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