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**HOUSE BILL 80**

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

**INTRODUCED BY**

**John A. Heaton**

**AN ACT**

**RELATING TO HEALTH; PROHIBITING A PROVISION IN A CONTRACT  
BETWEEN A HEALTH CARE PROVIDER AND A HEALTH PLAN THAT DOES NOT  
PERMIT THE PROVIDER TO PASS ON THE BURDEN OF THE GROSS RECEIPTS  
TAX IMPOSED UPON THE PROVIDER.**

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

**Section 1. PROHIBITED PROVISION IN A CONTRACT BETWEEN A  
HEALTH CARE PROVIDER AND A HEALTH PLAN. --**

**A. A provision in a contract establishing  
compensation to be paid a health care provider by a health plan  
that prohibits the provider from passing the burden of gross  
receipts tax imposed on the provider to the health plan is  
prohibited and unenforceable.**

**B. As used in this section:**

**(1) "health care insurer" means a person that**

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

5 (2) "health care provider" means a person that  
6 is licensed or otherwise authorized by the state to furnish  
7 health care services;

8 (3) "health care services" includes, to the  
9 extent offered by a health plan, physical health, mental  
10 health, including community-based mental health and  
11 developmental disability, and dental services;

12 (4) "health plan" means a health care insurer  
13 or a managed health care plan; and

14 (5) "managed health care plan" means a health  
15 care insurer or a provider service network when offering a  
16 benefit that either requires a covered person to use, or  
17 creates incentives, including financial incentives, for a  
18 covered person to use, health care providers that are managed,  
19 owned, under contract with or employed by the health care  
20 insurer or provider service network; but "managed health care  
21 plan" does not include a health care insurer or provider  
22 service network offering a traditional fee-for-service  
23 indemnity benefit or a benefit that covers only short-term  
24 travel, accident-only, limited benefit, student health plan or  
25 specified disease policies.

1           Section 2.   EFFECTIVE DATE. --The effective date of the  
2 provisions of this act is July 1, 2004.

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