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HOUSE BILL 968

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Joni Marie Gutierrez

AN ACT

RELATING TO TAXATION; PERMITTING LICENSED DIETICIANS TO DEDUCT FROM GROSS RECEIPTS CERTAIN PAYMENTS FROM MANAGED HEALTH CARE PROVIDERS OR HEALTH CARE INSURERS.

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) is amended to read:

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

A. Receipts from payments by a managed health care provider or health care insurer for commercial contract services or medicare part C services provided by a health care practitioner that are not otherwise deductible pursuant to another provision of the Gross Receipts and Compensating Tax Act may be deducted from gross receipts, provided that the

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1 services are within the scope of practice of the person  
2 providing the service. Receipts from fee-for-service payments  
3 by a health care insurer may not be deducted from gross  
4 receipts. The deduction provided by this section shall be  
5 separately stated by the taxpayer.

6 B. For the purposes of this section:

7 (1) "commercial contract services" means  
8 health care services performed by a health care practitioner  
9 pursuant to a contract with a managed health care provider 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 (2) "health care insurer" means a person that:

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

19 (b) contracts to reimburse licensed  
20 health care practitioners for providing basic health services  
21 to enrollees at negotiated fee rates;

22 (3) "health care practitioner" means:

23 (a) a chiropractic physician licensed  
24 pursuant to the provisions of the Chiropractic Physician  
25 Practice Act;

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

3 (c) a doctor of oriental medicine  
4 licensed pursuant to the provisions of the Acupuncture and  
5 Oriental Medicine Practice Act;

6 (d) an optometrist licensed pursuant to  
7 the provisions of the Optometry Act;

8 (e) an osteopathic physician licensed  
9 pursuant to the provisions of Chapter 61, Article 10 NMSA 1978  
10 or an osteopathic physician's assistant licensed pursuant to  
11 the provisions of the Osteopathic Physicians' Assistants Act;

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

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

17 (h) a podiatrist licensed pursuant to  
18 the provisions of the Podiatry Act;

19 (i) a psychologist licensed pursuant to  
20 the provisions of the Professional Psychologist Act;

21 (j) a registered lay midwife registered  
22 by the department of health;

23 (k) a registered nurse or licensed  
24 practical nurse licensed pursuant to the provisions of the  
25 Nursing Practice Act;

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1 (1) a registered occupational therapist  
2 licensed pursuant to the provisions of the Occupational Therapy  
3 Act;

4 (m) a respiratory care practitioner  
5 licensed pursuant to the provisions of the Respiratory Care  
6 Act; ~~and~~

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

10 (o) a dietician licensed pursuant to the  
11 Nutrition and Dietetics Practice Act;

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

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

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- 1 (f) integrated delivery systems;
- 2 (g) independent physician-provider
- 3 organizations;
- 4 (h) physician hospital-provider
- 5 organizations; and
- 6 (i) managed care services organizations;
- 7 and

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

12 Section 2. APPLICABILITY.--The effective date of the  
13 provisions of this act is January 1, 2006.