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SENATE BILL 342

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Timothy Z. Jennings

AN ACT

RELATING TO TAXATION; EXPANDING AND CLARIFYING THE GROSS RECEIPTS TAX DEDUCTION 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 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~~] pursuant to this subsection.

5 B. Receipts from co-payments or deductibles paid by
6 an insured or enrollee in a health plan for health care
7 services provided by a health care practitioner may be deducted
8 from gross receipts, provided that the services are within the
9 scope of practice of the person providing the services.

10 C. The deductions provided by this section shall be
11 separately stated by the taxpayer.

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

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

21 (2) "co-payment" means the per visit amount
22 required to be paid by an insured or enrollee for health care
23 services pursuant to the terms of the insured or enrollee's
24 health plan;

25 (3) "deductible" means the amount of covered

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1 charges an insured or enrollee is required to pay in a year
2 before the insured or enrollee's health plan begins to pay for
3 applicable covered charges;

4 (4) "fee for service" means payment for health
5 care services by health care insurers for covered charges
6 pursuant to an indemnity insurance plan;

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

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

15 [~~3~~] (6) "health care practitioner" means:

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

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

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

24 (d) an optometrist licensed pursuant to
25 the provisions of the Optometry Act;

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

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

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

10 (h) a podiatrist licensed pursuant to
11 the provisions of the Podiatry Act;

12 (i) a psychologist licensed pursuant to
13 the provisions of the Professional Psychologist Act;

14 (j) a registered lay midwife registered
15 by the department of health;

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

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

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

25 (n) a speech-language pathologist or

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1 audiologist licensed pursuant to the Speech-Language Pathology,
2 Audiology and Hearing Aid Dispensing Practices Act;

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

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

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

15 [~~(4)~~] (7) "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)~~] (8) "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, 2008.