# F I S C A L   I M P A C T   R E P O R T

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| | | **ORIGINAL DATE** | 1/28/08 | | |
| **SPONSOR** | Jennings | **LAST UPDATED** | | **HB** | |
| **SHORT TITLE** | Health Care Practitioner Gross Receipts | | | **SB** | 342 |
| | | | | **ANALYST** | Schardin |

**REVENUE (dollars in thousands)**

| Estimated Revenue | | | Recurring or Non-Rec | Fund Affected |
|---|---|---|---|---|
| **FY08** | **FY09** | **FY10** | | |
| | (19,925) | (21,918) | Recurring | General Fund |

(Parenthesis ( ) Indicate Revenue Decreases)

**SOURCES OF INFORMATION**
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Department of Health (DOH)
Health Policy Commission (HPC)

**SUMMARY**

Synopsis of Bill

Senate Bill 342 expands the medical services deduction enacted in 2004 (Section 7-9-93 NMSA 1978) to include receipts from co-payments or deductibles paid by an insured person to a health practitioner.

The bill also creates a definition for the term “fee for services” and would change the definition of “commercial contract services” to reference “negotiated fee rates” pursuant to a contract with a managed care provider or health care insurer.

The provisions of the bill will become effective on July 1, 2008.

**FISCAL IMPLICATIONS (See Technical Issues)**

Based on data from Mathematica’s July 2007 repolr titled “Quantitative and Comparative Analysis of Reform Options for Extending Health Care Coverage in New Mexico,” TRD estimates that total taxable gross receipts for all physicians eligible for the proposed co-payment and deductible deduction will be about $286.7 million in FY09. Taxed at an average gross receipts tax rate of 6.95 percent, the co-payment and deductible deduction will reduce revenue by about $19,925 thousand in FY09. Because local governments are held harmless from the revenue losses associated with the medical services deductions in Section 7-9-93 NMSA 1978, the entire revenue decrease will be to the general fund.

**SIGNIFICANT ISSUES**

Proponents of this legislation note that recruitment and retention of health providers has been difficult in New Mexico because of the gross receipts tax. Economic theory suggests that a shortage of healthcare labor will push healthcare wages, and therefore healthcare costs higher. Although much of this problem was addressed in 2004 when Section 7-9-93 NMSA 1978 was enacted, some healthcare practitioners in New Mexico still pay gross receipts tax, while their counterparts in most other states do not. Unlike many businesses that are subject to gross receipts tax but pass the tax on to consumers, many health providers cannot pass the tax on because managed care organizations and Medicare refuse to pay the tax.

LFC notes that while individual deductions from the gross receipts tax may have small fiscal impacts, their cumulative effect significantly narrows the gross receipts tax base. Narrowing the gross receipts tax base increases revenue volatility and requires a higher tax rate to generate the same amount of revenue.

LFC notes that receipts of health practitioners have historically grown faster than receipts of other industries. Removing receipts from high-growth sectors from the gross receipts tax base makes it more difficult for tax revenue to keep pace with inflation.

**ADMINISTRATIVE IMPLICATIONS**

The bill will cause a modest administrative impact on TRD. Taxpayers will require education and instruction and publications will be revised.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Senate Bill 342 relates to Senate Bill 158, which proposes a gross receipts tax deduction for receipts of certain health practitioners that are not otherwise deductible pursuant to Section 7-9-93 NMSA 1978 or any other provision.

**TECHNICAL ISSUES**

TRD notes that the proposal splits present law Section 7-9-93(A) NMSA 1978 into two subsections. The first new subsection retains the gross receipts tax deduction for payments by a managed care provider or health care insurer, and retains the exclusion for fee-for-service payments. The second new subsection provides the proposed co-payment and deductible language. Unlike present law, the new language is not limited to managed care plans, but extends to co-payments and deductibles under any type of health plan. Since the section does not define a "health plan," the bill may create confusion for taxpayers and TRD about what is covered by the new co-payment and deductible deduction. This confusion could increase the bill's fiscal impact.

HPC notes that the bill does not allow copayments and deductibles paid by the self-insured to be deducted from gross receipts tax.

SS/bb