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

SPONSOR Trujillo, J **ORIGINAL DATE** 2/15/15 **LAST UPDATED** 3/6/15 **HB** 259aHHC

SHORT TITLE Certain Physician Services Gross Receipts **SB**

ANALYST van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17	FY18	FY19		
$0.0	($9,100.0)	($9,400.0)	($9,700.0)	($10,000.0)	Recurring	General Fund

(Parenthesis ( ) indicate revenue decreases

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Economic Development Department (EDD)
Department of Finance and Administration (DFA)
Human Services Department (HSD)
Department of Health (DOH)

SUMMARY

Synopsis of HHC Amendment

The House Health Committee amendment strikes the section stating the purpose of the deductions is to retain health care practitioners currently providing commercial contract and Medicare part C services in the state and to attract additional health care practitioners to provide such services.

Synopsis of Original Bill

House Bill 259 amends the Gross Receipts and Compensating Tax Act to expand the types of receipts that may be deducted from gross receipts for commercial contract and Medicare part C services provided by a physician, osteopathic physician or podiatrist. The bill also places a January 1, 2021 sunset on the deduction.

Specifically, the bill makes deductible receipts from deductibles paid by an insured or enrollee

for commercial contract services pursuant to the terms of the insured's health insurance plan or the enrollee's managed care health plan may be deducted from gross receipts to:

- a physician licensed pursuant to the Medical Practice Act,
- an osteopathic physician licensed pursuant to the provisions of Chapter 61, Article 10 NMSA 1978, or
- a podiatrist licensed pursuant to the provisions of the Podiatry Act.

The bill removes the requirement that, in order to be deductible, gross receipts must be from payments for services that *are within the scope of practice of the person providing the service*.

The bill makes several additional definitions, including:

- deductible, which means the amount of covered charges an insured or enrollee is required to pay in a plan year for commercial contract services before the insured's health insurance plan or enrollee's managed care health plan begins to pay for applicable covered charges; and
- fee-for-service, which means payment for health care services by a health care insurer for covered charges under an indemnity insurance plan.

The bill's states the purpose of the deductions is to retain health care practitioners currently providing commercial contract and Medicare part C services in the state and to attract additional health care practitioners to provide such services.

The bill requires the Economic Development Department to request the New Mexico Center for Health Workforce Analysis to collect data to be used to assess the effectiveness of the deductions in the retention and recruitment of healthcare practitioners. EDD must report to the Revenue Stabilization and Tax Policy Committee and the LFC by November of each year on the effectiveness of the deductions.

The effective date of this bill is July 1, 2015. The sunset date of the deduction amended and expanded in this bill is January 1, 2021.

FISCAL IMPLICATIONS

TRD reports it worked extensively with the New Mexico Medical Society (NMMS) during the interim period to narrow down the potential impact of this proposal. TRD sector data was used with NMMS input on deductible and copay amounts applicable to the appropriate medical specialties, and data from the Health Care Cost Institute to estimate the added expenditure. Because the loss to local governments from an increased deduction is offset under current law by hold harmless distributions, the cost is solely borne by the general fund.

TRD reports it does not have data at a sufficiently detailed level to directly measure the impact of this bill. Data from several sources has been used to form the basis of the estimate, including Health Care Cost Institute (HCCI) estimates of out of pocket health care expenditures, TRD taxpayer information on NAICS classifications, and NMMS expertise in properly categorizing costs. Because the HCCI estimates, which form a large part of this estimate, involve some components of out of pocket costs not covered by this bill – copays and coinsurance – it follows that the impact of this bill would be smaller than it would be considering the full amount. However, TRD does not have sufficient data to separate out those components. Therefore, TRD

notes the amount presented is the total amount, which may overstate the actual fiscal impact. This bill may be counter to the LFC tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for atax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

SIGNIFICANT ISSUES

TRD reports the bill relieves health care practitioners of the obligation to pay GRT on receipts from patients (through a deductible amount) for commercial contract services or Medicare part C services. The providers are already entitled to deduct the payments for these same services made by the patient's health care insurer or managed health care providers. This may be in response to the restructuring of payment for medical services that places a larger deductible amount due upon patients.

The provisions of this bill that further expanding deductions for receipts from medical services are counter to an issue raised in Volume I of the LFC Report for Fiscal Year 2016. This report contends the restoration to the tax base of certain healthcare costs is supported by the implementation of the Affordable Care Act, which expands healthcare coverage to over 100 thousand uninsured adults and diminishes the need for subsidization of healthcare costs.

DFA reports the bill only allows physicians, osteopathic physicians, and podiatrists to take the deduction allowed for in this bill, adding that this may raise an equity issue as the majority of categories under the definition of "health care practitioner" in the bill, such as dentists, physical therapists and midwives, do not qualify. Health care practitioners not eligible for this deduction provide similar services to those that do qualify, subject to an insurance deductible.

DFA also cited a 2014 study by the Kaiser Family Foundation, a non-partisan national health policy research organization, in reporting that the percentage of single covered Americans with a deductible of $1,000 or more had increased from approximately 10 percent in 2006 to 41 percent in 2014. While part of this shift is likely a result of medical and health insurance cost trends, it is also likely that a shift in consumer preference towards high-deductible plans may also be contributing.

HSD reports the bill would have no impact on the department, noting Medicaid and CHIP would be excluded from the definition of managed care health plan and also do not require any deductibles from program recipients.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is <u>not</u> met since TRD is <u>not</u> required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is

meeting its purpose.

TECHNICAL ISSUES

DFA points out a technical issue in the bill. The bill strikes language that requires that medical services provided must fall under the scope of practice of the health care professional providing a service to be deductible. According to the TRD regulations "scope of practice" means those activities authorized to be conducted under a license granted to the provider. Health care providers performing health care services for which they are not licensed is clearly a legal issue, and thus providing a deduction for such services is not warranted. Recommend reinstating stricken language.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

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