

HOUSE BILL 274

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Jim R. Trujillo

AN ACT

RELATING TO TAXATION; CREATING A DEDUCTION FROM GROSS RECEIPTS FOR A COPAYMENT OR DEDUCTIBLE PAID TO A PHYSICIAN, OSTEOPATH OR PODIATRIST; PROVIDING A DELAYED REPEAL.

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 A HEALTH CARE PRACTITIONER--RECEIPTS FOR COPAYMENTS OR DEDUCTIBLES PAID TO CERTAIN HEALTH CARE PRACTITIONERS.--

A. Receipts from payments by a managed [~~health care provider~~] care organization or health care insurer for commercial contract services or medicare part C services provided by a health care practitioner [~~that are not otherwise~~

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1 ~~deductible pursuant to another provision of the Gross Receipts~~
2 ~~and Compensating Tax Act]~~ may be deducted from gross receipts
3 ~~[provided that the services are within the scope of practice of~~
4 ~~the person providing the service. Receipts from fee-for-~~
5 ~~service payments by a health care insurer may not be deducted~~
6 ~~from gross receipts. The deduction provided by this section~~
7 ~~shall be separately stated by the taxpayer].~~

8 B. Receipts from a copayment or deductible paid by
9 an insured or enrollee to a physician licensed pursuant to the
10 Medical Practice Act, an osteopathic physician licensed
11 pursuant to the provisions of Chapter 61, Article 10 NMSA 1978
12 or a podiatrist licensed pursuant to the provisions of the
13 Podiatry Act for commercial contract services pursuant to the
14 terms of the insured's health insurance plan or the enrollee's
15 managed care health plan may be deducted from gross receipts
16 as follows:

17 (1) on and after July 1, 2016 and prior to
18 July 1, 2017, thirty-three and one-third percent of those
19 receipts may be deducted;

20 (2) on and after July 1, 2017 and prior to
21 July 1, 2018, sixty-six and two-thirds percent of those
22 receipts may be deducted; and

23 (3) on and after July 1, 2018, one hundred
24 percent of those receipts may be deducted.

25 C. Receipts for fee-for-service payments by a

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1 health care insurer shall not be deducted from gross receipts
2 pursuant to this section.

3 D. The purpose of the deductions provided by this
4 section is to retain health care practitioners that provide
5 commercial contract and medicare part C services in the state
6 and to attract additional health care practitioners to the
7 state.

8 E. A taxpayer allowed a deduction pursuant to this
9 section shall report the amount of the deduction separately in
10 a manner required by the department.

11 F. The department shall compile an annual report on
12 the deductions provided by this section that shall include the
13 number of taxpayers that claimed the deductions, the aggregate
14 amount of deductions claimed and any other information
15 necessary to evaluate the effectiveness of the deductions.
16 The department shall compile and present the annual reports to
17 the revenue stabilization and tax policy committee and the
18 legislative finance committee with an analysis of the
19 effectiveness and cost of the deductions and whether the
20 deductions are performing the purpose for which the deductions
21 were created.

22 [~~B.~~] G. For the purposes of this section:

23 (1) "commercial contract services" means
24 health care services performed by a health care practitioner
25 pursuant to a contract with a managed [~~health care provider~~]

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1 care organization or health care insurer other than those
2 health care services provided for medicare patients pursuant to
3 Title 18 of the federal Social Security Act or for medicaid
4 patients pursuant to Title 19 or Title 21 of the federal Social
5 Security Act;

6 (2) "copayment or deductible" means the amount
7 of covered charges an insured or enrollee is required to pay in
8 a plan year for commercial contract services before the
9 insured's health insurance plan or enrollee's managed care
10 health plan begins to pay for applicable covered charges;

11 (3) "fee-for-service" means payment for health
12 care services by a health care insurer for covered charges
13 under an indemnity insurance plan;

14 [~~(2)~~] (4) "health care insurer" means a person
15 that:

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

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

23 [~~(3)~~] (5) "health care practitioner" means:

24 (a) a chiropractic physician licensed
25 pursuant to the provisions of the Chiropractic Physician

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1 Practice Act;

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

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

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

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

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

15 (g) a physician or physician assistant
16 licensed pursuant to the provisions of [~~Chapter 61, Article 6~~
17 ~~NMSA 1978~~] the Medical Practice Act;

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

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

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

24 (k) a registered nurse or licensed
25 practical nurse licensed pursuant to the provisions of the

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1 Nursing Practice Act;

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

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

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

11 (o) a professional clinical mental
12 health counselor, marriage and family therapist or professional
13 art therapist licensed pursuant to the provisions of the
14 Counseling and Therapy Practice Act who has obtained a master's
15 degree or a doctorate;

16 (p) an independent social worker
17 licensed pursuant to the provisions of the Social Work Practice
18 Act; and

19 (q) a clinical laboratory that is
20 accredited pursuant to 42 U.S.C. Section 263a but that is not a
21 laboratory in a physician's office or in a hospital defined
22 pursuant to 42 U.S.C. Section 1395x;

23 [~~(4) "managed health care provider"~~]

24 (6) "managed care organization" means a person
25 that provides for the delivery of comprehensive basic health

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1 care services and medically necessary services to individuals
2 enrolled in a plan through its own employed health care
3 providers or by contracting with selected or participating
4 health care providers. "Managed [~~health care provider~~] care
5 organization" includes only those persons that provide
6 comprehensive basic health care services to enrollees on a
7 contract basis, including the following:

- 8 (a) health maintenance organizations;
- 9 (b) preferred provider organizations;
- 10 (c) individual practice associations;
- 11 (d) competitive medical plans;
- 12 (e) exclusive provider organizations;
- 13 (f) integrated delivery systems;
- 14 (g) independent physician-provider
15 organizations;
- 16 (h) physician hospital-provider
17 organizations; and
- 18 (i) managed care services organizations;

19 [~~and~~]

20 (7) "managed care health plan" means a health
21 care plan offered by a managed care organization that provides
22 for the delivery of comprehensive basic health care services
23 and medically necessary services to individuals enrolled in the
24 plan other than those services provided to medicare patients
25 pursuant to Title 18 of the federal Social Security Act or to

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1 medicaid patients pursuant to Title 19 or Title 21 of the
2 federal Social Security Act; and

3 [~~(5)~~] (8) "medicare part C services" means
4 services performed pursuant to a contract with a managed
5 ~~[health care provider]~~ care organization for medicare patients
6 pursuant to Title 18 of the federal Social Security Act."

7 SECTION 2. DELAYED REPEAL.--Section 7-9-93 NMSA 1978
8 (being Laws 2004, Chapter 116, Section 6, as amended) is
9 repealed effective July 1, 2021.

10 SECTION 3. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2016.