

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AN ACT

RELATING TO TAXATION; PROVIDING THAT RECEIPTS FROM PAYMENTS OF A MEDICARE ADMINISTRATIVE CONTRACTOR BE ELIGIBLE FOR A GROSS RECEIPTS TAX DEDUCTION FOR CERTAIN MEDICAL AND HEALTH CARE SERVICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-9-77.1 NMSA 1978 (being Laws 1998, Chapter 96, Section 1, as amended by Laws 2021, Chapter 54, Section 1 and by Laws 2021, Chapter 65, Section 24) is amended to read:

"7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN MEDICAL AND HEALTH CARE SERVICES.--

A. Receipts of a health care practitioner or an association of health care practitioners from payments by the United States government, or any agency thereof, or from a medicare administrative contractor for medical and other health services provided by a health care practitioner to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

B. Receipts of a hospice or nursing home from payments by the United States government, or any agency thereof, or from a medicare administrative contractor for medical and other health and palliative services provided by

1 the hospice or nursing home to medicare beneficiaries
2 pursuant to the provisions of Title 18 of the federal Social
3 Security Act may be deducted from gross receipts.

4 C. Receipts of a health care practitioner or an
5 association of health care practitioners from payments by a
6 third-party administrator of the federal TRICARE program for
7 medical and other health services provided by physicians and
8 osteopathic physicians to covered beneficiaries may be
9 deducted from gross receipts.

10 D. Receipts of a health care practitioner or an
11 association of health care practitioners from payments by or
12 on behalf of the Indian health service of the United States
13 department of health and human services for medical and other
14 health services provided by physicians and osteopathic
15 physicians to covered beneficiaries may be deducted from
16 gross receipts.

17 E. Receipts of a clinical laboratory from payments
18 by the United States government, or any agency thereof, or
19 from a medicare administrative contractor for medical
20 services provided by the clinical laboratory to medicare
21 beneficiaries pursuant to the provisions of Title 18 of the
22 federal Social Security Act may be deducted from gross
23 receipts.

24 F. Receipts of a home health agency from payments
25 by the United States government, or any agency thereof, or

1 from a medicare administrative contractor for medical, other
2 health and palliative services provided by the home health
3 agency to medicare beneficiaries pursuant to the provisions
4 of Title 18 of the federal Social Security Act may be
5 deducted from gross receipts.

6 G. Prior to July 1, 2024, receipts of a dialysis
7 facility from payments by the United States government, or
8 any agency thereof, or from a medicare administrative
9 contractor for medical and other health services provided by
10 the dialysis facility to medicare beneficiaries pursuant to
11 the provisions of Title 18 of the federal Social Security Act
12 may be deducted from gross receipts.

13 H. A taxpayer allowed a deduction pursuant to this
14 section shall report the amount of the deduction separately
15 in a manner required by the department. A taxpayer who has
16 receipts that are deductible pursuant to this section and
17 Section 7-9-93 NMSA 1978 shall deduct the receipts under this
18 section prior to calculating the receipts that may be
19 deducted pursuant to Section 7-9-93 NMSA 1978.

20 I. The department shall compile an annual report
21 on the deductions created pursuant to this section that shall
22 include the number of taxpayers that claimed each deduction,
23 the aggregate amount of deductions claimed and any other
24 information necessary to evaluate the effectiveness of the
25 deductions. The department shall compile and present the

1 annual reports to the revenue stabilization and tax policy
2 committee and the legislative finance committee with an
3 analysis of the effectiveness and cost of the deductions and
4 whether the deductions are providing a benefit to the state.

5 J. For the purposes of this section:

6 (1) "association of health care
7 practitioners" means a corporation, unincorporated business
8 entity or other legal entity organized by, owned by or
9 employing one or more health care practitioners; provided
10 that the entity is not:

11 (a) an organization granted exemption
12 from the federal income tax by the United States commissioner
13 of internal revenue as organizations described in Section
14 501(c)(3) of the United States Internal Revenue Code of 1986,
15 as that section may be amended or renumbered; or

16 (b) a health maintenance organization,
17 hospital, hospice, nursing home or an entity that is solely
18 an outpatient facility or intermediate care facility licensed
19 pursuant to the Public Health Act;

20 (2) "clinical laboratory" means a laboratory
21 accredited pursuant to 42 USCA 263a;

22 (3) "dialysis facility" means an end-stage
23 renal disease facility as defined pursuant to 42 C.F.R.
24 405.2102;

25 (4) "health care practitioner" means:

- 1 (a) an athletic trainer licensed
2 pursuant to the Athletic Trainer Practice Act;
- 3 (b) an audiologist licensed pursuant to
4 the Speech-Language Pathology, Audiology and Hearing Aid
5 Dispensing Practices Act;
- 6 (c) a chiropractic physician licensed
7 pursuant to the Chiropractic Physician Practice Act;
- 8 (d) a counselor or therapist
9 practitioner licensed pursuant to the Counseling and Therapy
10 Practice Act;
- 11 (e) a dentist licensed pursuant to the
12 Dental Health Care Act;
- 13 (f) a doctor of oriental medicine
14 licensed pursuant to the Acupuncture and Oriental Medicine
15 Practice Act;
- 16 (g) an independent social worker
17 licensed pursuant to the Social Work Practice Act;
- 18 (h) a massage therapist licensed
19 pursuant to the Massage Therapy Practice Act;
- 20 (i) a naprapath licensed pursuant to
21 the Naprapathic Practice Act;
- 22 (j) a nutritionist or dietitian
23 licensed pursuant to the Nutrition and Dietetics Practice
24 Act;
- 25 (k) an occupational therapist licensed

1 pursuant to the Occupational Therapy Act;

2 (l) an optometrist licensed pursuant to
3 the Optometry Act;

4 (m) an osteopathic physician licensed
5 pursuant to the Medical Practice Act;

6 (n) a pharmacist licensed pursuant to
7 the Pharmacy Act;

8 (o) a physical therapist licensed
9 pursuant to the Physical Therapy Act;

10 (p) a physician licensed pursuant to
11 the Medical Practice Act;

12 (q) a podiatrist licensed pursuant to
13 the Podiatry Act;

14 (r) a psychologist licensed pursuant to
15 the Professional Psychologist Act;

16 (s) a radiologic technologist licensed
17 pursuant to the Medical Imaging and Radiation Therapy Health
18 and Safety Act;

19 (t) a registered nurse licensed
20 pursuant to the Nursing Practice Act;

21 (u) a respiratory care practitioner
22 licensed pursuant to the Respiratory Care Act; and

23 (v) a speech-language pathologist
24 licensed pursuant to the Speech-Language Pathology, Audiology
25 and Hearing Aid Dispensing Practices Act;

1 (5) "home health agency" means a for-profit
2 entity that is licensed by the department of health and
3 certified by the federal centers for medicare and medicaid
4 services as a home health agency and certified to provide
5 medicare services;

6 (6) "hospice" means a for-profit entity
7 licensed by the department of health as a hospice and
8 certified to provide medicare services;

9 (7) "medicare administrative contractor"
10 means a third-party administrator operating under contract
11 with the federal centers for medicare and medicaid services
12 to process medicare claims and make medicare fee-for-service
13 payments for medicare fee-for-service beneficiaries;

14 (8) "nursing home" means a for-profit entity
15 licensed by the department of health as a nursing home and
16 certified to provide medicare services; and

17 (9) "TRICARE program" means the program
18 defined in 10 U.S.C. 1072(7)."

19 SECTION 2. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2022. _____