

1 SENATE BILL 36

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

3 INTRODUCED BY

4 Mark Moores

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10 AN ACT

11 RELATING TO TAXATION; REQUIRING CERTAIN RECEIPTS FOR SERVICES  
12 PROVIDED BY A HEALTH CARE PRACTITIONER THAT ARE DEDUCTIBLE FROM  
13 GROSS RECEIPTS TO BE WITHIN THE SCOPE OF PRACTICE OF THE  
14 PRACTITIONER; DEFINING "COPAYMENT" IN THE DEDUCTION.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 7-9-93 NMSA 1978 (being Laws 2004,  
18 Chapter 116, Section 6, as amended) is amended to read:

19 "7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR  
20 SERVICES PROVIDED BY HEALTH CARE PRACTITIONER OR ASSOCIATION OF  
21 HEALTH CARE PRACTITIONERS.--

22 A. Receipts of a health care practitioner or an  
23 association of health care practitioners for commercial  
24 contract services or medicare part C services paid by a managed  
25 care organization or health care insurer may be deducted from

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1 gross receipts if the services are within the scope of practice  
2 of the health care practitioner providing the service.

3 Receipts from fee-for-service payments by a health care insurer  
4 may not be deducted from gross receipts.

5 B. Prior to July 1, 2028, receipts from a copayment  
6 or deductible paid by an insured or enrollee to a health care  
7 practitioner or an association of health care practitioners for  
8 commercial contract services pursuant to the terms of the  
9 insured's health insurance plan or enrollee's managed care  
10 health plan may be deducted from gross receipts if the services  
11 are within the scope of practice of the health care  
12 practitioner providing the service.

13 C. The deductions provided by this section shall be  
14 applied only to gross receipts remaining after all other  
15 allowable deductions available under the Gross Receipts and  
16 Compensating Tax Act have been taken.

17 D. A taxpayer allowed a deduction pursuant to this  
18 section shall report the amount of the deduction separately in  
19 a manner required by the department.

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

1 stabilization and tax policy committee and the legislative  
2 finance committee with an analysis of the cost of the  
3 deductions.

4 F. As used in this section:

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

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

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

18 (2) "commercial contract services" means  
19 health care services performed by a health care practitioner  
20 pursuant to a contract with a managed care organization or  
21 health care insurer other than those health care services  
22 provided for medicare patients pursuant to Title 18 of the  
23 federal Social Security Act or for medicaid patients pursuant  
24 to Title 19 or Title 21 of the federal Social Security Act;

25 (3) "copayment" means a fixed dollar amount

1 that a health care insurer or managed care health plan requires  
2 an insured or enrollee to pay upon incurring an expense for  
3 receiving medical services;

4 ~~[(3)]~~ (4) "[~~copayment or~~] deductible" means  
5 the amount of covered charges an insured or enrollee is  
6 required to pay in a plan year for commercial contract services  
7 before the insured's health insurance plan or enrollee's  
8 managed care health plan begins to pay for applicable covered  
9 charges;

10 ~~[(4)]~~ (5) "fee-for-service" means payment for  
11 health care services by a health care insurer for covered  
12 charges under an indemnity insurance plan;

13 ~~[(5)]~~ (6) "health care insurer" means a person  
14 that:

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

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

22 ~~[(6)]~~ (7) "health care practitioner" means:

23 (a) a chiropractic physician licensed  
24 pursuant to the provisions of the Chiropractic Physician  
25 Practice Act;

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- 1 (b) a dentist or dental hygienist  
2 licensed pursuant to the Dental Health Care Act;
- 3 (c) a doctor of oriental medicine  
4 licensed pursuant to the provisions of the Acupuncture and  
5 Oriental Medicine Practice Act;
- 6 (d) an optometrist licensed pursuant to  
7 the provisions of the Optometry Act;
- 8 (e) an osteopathic physician licensed  
9 pursuant to the provisions of the Medical Practice Act;
- 10 (f) a physical therapist licensed  
11 pursuant to the provisions of the Physical Therapy Act;
- 12 (g) a physician or physician assistant  
13 licensed pursuant to the provisions of the Medical Practice  
14 Act;
- 15 (h) a ~~[podiatrist]~~ podiatric physician  
16 licensed pursuant to the provisions of the Podiatry Act;
- 17 (i) a psychologist licensed pursuant to  
18 the provisions of the Professional Psychologist Act;
- 19 (j) a registered lay midwife registered  
20 by the department of health;
- 21 (k) a registered nurse or licensed  
22 practical nurse licensed pursuant to the provisions of the  
23 Nursing Practice Act;
- 24 (l) a registered occupational therapist  
25 licensed pursuant to the provisions of the Occupational Therapy

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1 Act;

2 (m) a respiratory care practitioner  
3 licensed pursuant to the provisions of the Respiratory Care  
4 Act;

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

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

13 (p) an independent social worker  
14 licensed pursuant to the provisions of the Social Work Practice  
15 Act; and

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

20 ~~[(7)]~~ (8) "managed care health plan" means a  
21 health care plan offered by a managed care organization that  
22 provides for the delivery of comprehensive basic health care  
23 services and medically necessary services to individuals  
24 enrolled in the plan other than those services provided to  
25 medicare patients pursuant to Title 18 of the federal Social

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

3 ~~[(8)]~~ (9) "managed care organization" means a  
4 person that provides for the delivery of comprehensive basic  
5 health care services and medically necessary services to  
6 individuals enrolled in a plan through its own employed health  
7 care providers or by contracting with selected or participating  
8 health care providers. "Managed care organization" includes  
9 only those persons that provide comprehensive basic health care  
10 services to enrollees on a contract basis, including the  
11 following:

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

24 ~~[(9)]~~ (10) "medicare part C services" means  
25 services performed pursuant to a contract with a managed health

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1 care provider for medicare patients pursuant to Title 18 of the  
2 federal Social Security Act."

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