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SENATE BILL

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

INTRODUCED BY

Mark Moores

AN ACT

RELATING TO TAXATION; INCLUDING RECEIPTS FOR FEE-FOR-SERVICE PAYMENTS AND PAYMENTS FROM INDIVIDUALS TO BE ALLOWED FOR A GROSS RECEIPTS TAX DEDUCTION FOR SERVICES PROVIDED BY HEALTH CARE PRACTITIONERS; AMENDING THE DEFINITION OF "HEALTH CARE INSURER" FOR THE DEDUCTION.

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 HEALTH CARE PRACTITIONER OR ASSOCIATION OF HEALTH CARE PRACTITIONERS.--

A. Receipts of a health care practitioner or an association of health care practitioners for commercial contract services, fee-for-service payments or medicare part C

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1 services paid by a managed care organization or health care  
2 insurer may be deducted from gross receipts if the services are  
3 within the scope of practice of the health care practitioner  
4 providing the service. [~~Receipts from fee-for-service payments~~  
5 ~~by a health care insurer may not be deducted from gross~~  
6 ~~receipts.~~]

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

13 C. Receipts of a health care practitioner for  
14 medically necessary services paid by an individual may be  
15 deducted from gross receipts if the services that are within  
16 the scope of practice of the health care practitioner providing  
17 the services are not deductible pursuant to Subsection A or B  
18 of this section.

19 [~~C.~~] D. The deductions provided by this section  
20 shall be applied only to gross receipts remaining after all  
21 other allowable deductions available under the Gross Receipts  
22 and Compensating Tax Act have been taken.

23 [~~D.~~] E. A taxpayer allowed a deduction pursuant to  
24 this section shall report the amount of the deduction  
25 separately in a manner required by the department.

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1           ~~[E-]~~ F. The department shall compile an annual  
2 report on the deductions provided by this section that shall  
3 include the number of taxpayers that claimed the deductions,  
4 the aggregate amount of deductions claimed and any other  
5 information necessary to evaluate the effectiveness of the  
6 deductions. The department shall present the report to the  
7 revenue stabilization and tax policy committee and the  
8 legislative finance committee with an analysis of the cost of  
9 the deductions.

10           ~~[F-]~~ G. As used in this section:

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

15                               (a) an organization granted exemption  
16 from the federal income tax by the United States commissioner  
17 of internal revenue as organizations described in Section  
18 501(c)(3) of the United States Internal Revenue Code of 1986,  
19 as that section may be amended or renumbered; or

20                               (b) a health maintenance organization,  
21 hospital, hospice, nursing home or an entity that is solely an  
22 outpatient facility or intermediate care facility licensed  
23 pursuant to the Public Health Act;

24                   (2) "commercial contract services" means  
25 health care services performed by a health care practitioner

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

6 (3) "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 (4) "fee-for-service" means payment ~~[for~~  
12 ~~health care services]~~ by a health care insurer ~~[for covered~~  
13 ~~charges under an indemnity insurance plan]~~ to a health care  
14 practitioner for each health care service performed;

15 (5) "health care insurer" means a person 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]~~ reimburses  
21 licensed health care practitioners for providing basic health  
22 services to enrollees ~~[at negotiated fee rates];~~

23 (6) "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 the Medical Practice Act;

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

13 (g) a physician or physician assistant  
14 licensed pursuant to the provisions of the Medical Practice  
15 Act;

16 (h) a ~~[podiatrist]~~ podiatric physician  
17 licensed pursuant to the provisions of the Podiatry Act;

18 (i) a psychologist licensed pursuant to  
19 the provisions of the Professional Psychologist Act;

20 (j) a registered lay midwife registered  
21 by the department of health;

22 (k) a registered nurse or licensed  
23 practical nurse licensed pursuant to the provisions of the  
24 Nursing Practice Act;

25 (l) a registered occupational therapist

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1 licensed pursuant to the provisions of the Occupational Therapy  
2 Act;

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

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

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

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

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

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

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1 pursuant to Title 18 of the federal Social Security Act or to  
2 medicaid patients pursuant to Title 19 or Title 21 of the  
3 federal Social Security Act;

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

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

25 (9) "medicare part C services" means services

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1 performed pursuant to a contract with a managed health care  
2 provider for medicare patients pursuant to Title 18 of the  
3 federal Social Security Act."

4 SECTION 2. EFFECTIVE DATE.--The effective date of the  
5 provisions of this act is July 1, 2024.