

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
PROVIDING AN INCOME TAX CREDIT FOR CERTAIN MEDICAL CARE
EXPENSES.

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

Section 1. A new section of the Income Tax Act is
enacted to read:

"CREDIT--UNREIMBURSED OR UNCOMPENSATED MEDICAL CARE
EXPENSES OF INDIVIDUALS SIXTY-FIVE YEARS OF AGE OR OLDER.--

A. A taxpayer who files an individual New Mexico
income tax return, who is sixty-five years of age or older and
who is not a dependent of another taxpayer may claim a credit
in an amount equal to two thousand eight hundred dollars
(\$2,800) for medical care expenses paid by the taxpayer for
that taxpayer or for the taxpayer's spouse or dependent if
those expenses equal twenty-eight thousand dollars (\$28,000)
or more within a taxable year and if those expenses are not
reimbursed or compensated for by insurance or otherwise.

B. A husband and wife who file separate returns
for a taxable year in which they could have filed a joint
return may each claim only one-half of the credit that would
have been allowed on a joint return.

C. The credit provided in this section may be
deducted from the taxpayer's income tax liability. If the

credit exceeds the income tax liability for the taxable year, the excess shall be refunded to the taxpayer.

D. As used in this section:

(1) "dependent" means "dependent" as defined in Section 152 of the Internal Revenue Code;

(2) "health care facility" means a hospital, outpatient facility, diagnostic and treatment center, rehabilitation center, freestanding hospice or other similar facility at which medical care is provided;

(3) "medical care" means the diagnosis, cure, mitigation, treatment or prevention of disease or for the purpose of affecting any structure or function of the body;

(4) "medical care expenses" means the amounts paid for:

(a) the diagnosis, cure, mitigation, treatment or prevention of disease or for the purpose of affecting any structure or function of the body, if provided by a physician or in a health care facility;

(b) prescribed drugs or insulin;

(c) qualified long-term care services as defined in Section 7702B(c) of the Internal Revenue Code;

(d) insurance covering medical care, including amounts paid as premiums under Part B of Title

18 of the Social Security Act or for a qualified long-term care insurance contract defined in Section 7702B(b) of the Internal Revenue Code, if the insurance or other amount is paid from income included in the taxpayer's adjusted gross income for the taxable year;

(e) specialized treatment or the use of special therapeutic devices if the treatment or device is prescribed by a physician and the patient can show that the expense was incurred primarily for the prevention or alleviation of a physical or mental defect or illness; and

(f) care in an institution other than a hospital, such as a sanitarium or rest home, if the principal reason for the presence of the person in the institution is to receive the medical care available; provided that if the meals and lodging are furnished as a necessary part of such care, the cost of meals and lodging are "medical care expenses";

(5) "physician" means a medical doctor, osteopathic physician, dentist, podiatrist, chiropractic physician or psychologist licensed or certified to practice in New Mexico; and

(6) "prescribed drug" means a drug or biological that requires a prescription of a physician for its use by an individual."

Section 2. APPLICABILITY.--The provisions of Section 1

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of this act apply to taxable years beginning on or after
January 1, 2005.

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