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HOUSE BILL 797

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO TAXATION; ADDING CERTAIN CLINICAL LABORATORIES TO THE DEFINITION OF HEALTH CARE PRACTITIONERS ELIGIBLE FOR THE GROSS RECEIPTS TAX DEDUCTION PROVIDED IN SECTION 7-9-93 NMSA 1978 (BEING LAWS 2004, CHAPTER 116, SECTION 6, AS AMENDED).

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.--

A. Receipts from payments by a managed health care provider or health care insurer for commercial contract services or medicare part C services provided by a health care practitioner that are not otherwise deductible pursuant to another provision of the Gross Receipts and Compensating Tax

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1 Act may be deducted from gross receipts, provided that the  
2 services are within the scope of practice of the person  
3 providing the service. Receipts from fee-for-service payments  
4 by a health care insurer may not be deducted from gross  
5 receipts. The deduction provided by this section shall be  
6 separately stated by the taxpayer.

7 B. For the purposes of this section:

8 (1) "commercial contract services" means  
9 health care services performed by a health care practitioner  
10 pursuant to a contract with a managed health care provider or  
11 health care insurer other than those health care services  
12 provided for medicare patients pursuant to Title 18 of the  
13 federal Social Security Act or for medicaid patients pursuant  
14 to Title 19 or Title 21 of the federal Social Security Act;

15 (2) "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 licensed  
21 health care practitioners for providing basic health services  
22 to enrollees at negotiated fee rates;

23 (3) "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;

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; [~~and~~]

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" means a  
24 person that provides for the delivery of comprehensive basic  
25 health care services and medically necessary services to

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

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

19 (5) "medicare part C services" means services  
20 performed pursuant to a contract with a managed health care  
21 provider for medicare patients pursuant to Title 18 of the  
22 federal Social Security Act."

23 Section 2. EFFECTIVE DATE.--The effective date of the  
24 provisions of this act is July 1, 2007.