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HOUSE BILL 346

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Jim R. Trujillo and William B. Pratt and Javier Martínez and
Susan K. Herrera and Deborah A. Armstrong

AN ACT

RELATING TO TAXATION; EXPANDING THE TYPE OF PROVIDERS ELIGIBLE
FOR CERTAIN HEALTH CARE GROSS RECEIPTS TAX DEDUCTIONS.

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) 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~~
provider] from payments by the United States government or any
agency thereof for provision of medical and other health
services by a health care [~~practitioner~~] provider or of medical
or other health and palliative services by hospices or nursing
homes to medicare beneficiaries pursuant to the provisions of
Title 18 of the federal Social Security Act may be deducted

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from gross receipts.

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B. Receipts of a health care [~~practitioner~~]

provider from payments by a third-party administrator of the federal TRICARE program for provision of medical and other health services by medical doctors and osteopathic physicians to covered beneficiaries may be deducted from gross receipts.

C. Receipts of a health care [~~practitioner~~]

provider from payments by or on behalf of the Indian health service of the United States department of health and human services for provision of medical and other health services by medical doctors and osteopathic physicians to covered beneficiaries may be deducted from gross receipts.

D. Receipts of a clinical laboratory from payments

by the United States government or any agency thereof for medical services provided by the clinical laboratory to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

E. Receipts of a home health agency from payments

by the United States government or any agency thereof for medical, other health and palliative services provided by the home health agency to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

F. Prior to July 1, 2024, receipts of a dialysis

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facility from payments by the United States government or any
agency thereof for medical and other health services provided
by the dialysis facility to medicare beneficiaries pursuant to
the provisions of Title 18 of the federal Social Security Act
may be deducted from gross receipts.

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

H. The department shall compile an annual report on
the deductions created pursuant to this section that shall
include the number of taxpayers approved by the department to
receive each deduction, the aggregate amount of deductions
approved and any other information necessary to evaluate the
effectiveness of the deductions. The department shall ~~compile~~
~~and~~ present the ~~[annual reports]~~ report to the revenue
stabilization and tax policy committee and the legislative
finance committee with an analysis of the effectiveness and
cost of the deductions and whether the deductions are providing
a benefit to the state.

I. For the purposes of this section:

(1) "clinical laboratory" means a laboratory

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accredited pursuant to 42 USCA 263a;

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(2) "dialysis facility" means an end-stage renal disease facility as defined pursuant to 42 C.F.R.

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(3) "excluded entity" means:

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(a) an organization described in

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Subsection A of Section 7-9-29 NMSA 1978; or

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(b) a health maintenance organization,

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hospital, hospice, nursing home or intermediate care facility

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licensed by the department of health pursuant to the Public

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Health Act;

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~~(3)~~ (4) "health care [practitioner]

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provider" means:

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(a) an athletic trainer licensed

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pursuant to the Athletic Trainer Practice Act;

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(b) an audiologist licensed pursuant to

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the Speech-Language Pathology, Audiology and Hearing Aid

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Dispensing Practices Act;

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(c) a chiropractic physician licensed

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pursuant to the Chiropractic Physician Practice Act;

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(d) a counselor or therapist

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practitioner licensed pursuant to the Counseling and Therapy

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Practice Act;

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(e) a dentist licensed pursuant to the

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Dental Health Care Act;

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(f) a doctor of oriental medicine
licensed pursuant to the Acupuncture and Oriental Medicine
Practice Act;

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(g) an independent social worker
licensed pursuant to the Social Work Practice Act;

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(h) a massage therapist licensed
pursuant to the Massage Therapy Practice Act;

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(i) a naprapath licensed pursuant to the
Naprapathic Practice Act;

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(j) a nutritionist or dietitian licensed
pursuant to the Nutrition and Dietetics Practice Act;

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(k) an occupational therapist licensed
pursuant to the Occupational Therapy Act;

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

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(m) an osteopathic physician licensed
pursuant to the Osteopathic Medicine Act;

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

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

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

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

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

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

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

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

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

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(w) a qualifying health care entity;

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

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~~(5)~~ (6) "hospice" means a for-profit entity
licensed by the department of health as a hospice and certified
to provide medicare services;

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

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(8) "owned and controlled" means equity

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ownership in a corporation, limited liability company,
partnership or other legal entity that:

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(a) represents at least fifty percent of
the total voting power of the entity; and

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(b) has a value of at least fifty
percent of the total value of the equity of the entity;

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(9) "qualifying health care entity" means a
corporation, limited liability company, partnership or other
legal entity that is not an excluded entity and is owned and
controlled, directly or indirectly, by one or more individuals
who are health care providers and who are duly licensed or
legally authorized to provide the medical and other health care
services provided by the entity; and

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

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SECTION 2. Section 7-9-93 NMSA 1978 (being Laws 2004,
Chapter 116, Section 6, as amended) is amended to read:

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"7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR
SERVICES PROVIDED BY HEALTH CARE ~~[PRACTITIONER]~~ PROVIDERS.--

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A. Receipts of a health care ~~[practitioner]~~
provider for commercial contract services or medicare part C
services paid by a managed health care provider or health care
insurer may be deducted from gross receipts if the services are
within the scope of practice of the health care ~~[practitioner]~~
provider providing the service. Receipts from fee-for-service

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payments by a health care insurer may not be deducted from
gross receipts.

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B. The deduction provided by this section shall be
applied only to gross receipts remaining after all other
allowable deductions available under the Gross Receipts and
Compensating Tax Act have been taken and shall be separately
stated by the taxpayer.

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

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D. The department shall compile an annual report on
the deduction provided by this section that shall include the
number of taxpayers that claimed the deductions, the aggregate
amount of deductions claimed and any other information
necessary to evaluate the effectiveness of the deductions. The
department shall present the report to the revenue
stabilization and tax policy committee and the legislative
finance committee with an analysis of the cost of the
deductions.

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[G.] E. For [the] purposes of this section:

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

(2) "excluded entity" means:

(a) an organization described in Subsection A of Section 7-9-29 NMSA 1978; or

(b) a health maintenance organization, hospital, hospice, nursing home or intermediate care facility licensed by the department of health pursuant to the Public Health Act;

~~(2)~~ (3) "health care insurer" means a person that:

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

(b) contracts to reimburse licensed health care ~~[practitioners]~~ providers for providing basic health services to insureds or enrollees at negotiated fee rates;

~~(3)~~ (4) "health care [practitioner] provider" means:

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

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(b) a dentist or dental hygienist
licensed pursuant to the Dental Health Care Act;

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(c) a doctor of oriental medicine
licensed pursuant to the provisions of the Acupuncture and
Oriental Medicine Practice Act;

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(d) an optometrist licensed pursuant to
the provisions of the Optometry Act;

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(e) an osteopathic physician or an
osteopathic physician's assistant licensed pursuant to the
provisions of the Osteopathic Medicine Act;

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

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

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(h) a podiatrist licensed pursuant to
the provisions of the Podiatry Act;

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

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

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

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(l) a registered occupational therapist

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licensed pursuant to the provisions of the Occupational Therapy Act;

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

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

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

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

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

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(r) a qualifying health care entity;

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~~(4)~~ (5) "managed health care provider" means a person that provides for the delivery of comprehensive basic health care services and medically necessary services to individuals enrolled in a plan through its own employed health

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care providers or by contracting with selected or participating
2 health care providers. "Managed health care provider" includes
3 only those persons that provide comprehensive basic health care
4 services to enrollees on a contract basis, including the
5 following:

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(a) health maintenance organizations;

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(b) preferred provider organizations;

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(c) individual practice associations;

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(d) competitive medical plans;

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(e) exclusive provider organizations;

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(f) integrated delivery systems;

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(g) independent physician-provider

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organizations;

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(h) physician hospital-provider

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organizations; and

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(i) managed care services organizations;

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[and]

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~~(5)~~ (6) "medicare part C services" means

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services performed pursuant to a contract with a managed health

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care provider for medicare patients pursuant to Title 18 of the

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federal Social Security Act;

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(7) "owned and controlled" means equity

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ownership in a corporation, limited liability company,

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partnership or other legal entity that:

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(a) represents at least fifty percent of

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the total voting power of the entity; and

(b) has a value of at least fifty percent of the total value of the equity of the entity; and

(8) "qualifying health care entity" means a corporation, limited liability company, partnership or other legal entity that is not an excluded entity and is owned and controlled, directly or indirectly, by one or more individuals who are health care providers and who are duly licensed or legally authorized to provide the medical and other health care services provided by the entity."

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

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