

1 SENATE BILL 138

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022**

3 INTRODUCED BY

4 Gay G. Kernan

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10 AN ACT

11 RELATING TO TAXATION; PROVIDING THAT RECEIPTS FROM PAYMENTS OF
12 A MEDICARE ADMINISTRATIVE CONTRACTOR BE ELIGIBLE FOR A GROSS
13 RECEIPTS TAX DEDUCTION FOR CERTAIN MEDICAL AND HEALTH CARE
14 SERVICES.

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

17 SECTION 1. Section 7-9-77.1 NMSA 1978 (being Laws 1998,
18 Chapter 96, Section 1, as amended by Laws 2021, Chapter 54,
19 Section 1 and by Laws 2021, Chapter 65, Section 24) is amended
20 to read:

21 "7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN MEDICAL
22 AND HEALTH CARE SERVICES.--

23 A. Receipts of a health care practitioner or an
24 association of health care practitioners from payments by the
25 United States government, or any agency thereof, or from a

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1 medicare administrative contractor for [~~provision of~~] medical
2 and other health services provided by a health care
3 practitioner [~~or of medical or other health and palliative~~
4 ~~services by hospices or nursing homes~~] to medicare
5 beneficiaries pursuant to the provisions of Title 18 of the
6 federal Social Security Act may be deducted from gross
7 receipts.

8 B. Receipts of a hospice or nursing home from
9 payments by the United States government, or any agency
10 thereof, or from a medicare administrative contractor for
11 medical and other health and palliative services provided by
12 the hospice or nursing home to medicare beneficiaries pursuant
13 to the provisions of Title 18 of the federal Social Security
14 Act may be deducted from gross receipts.

15 [~~B.~~] C. Receipts of a health care practitioner or
16 an association of health care practitioners from payments by a
17 third-party administrator of the federal TRICARE program for
18 [~~provision of~~] medical and other health services provided by
19 [~~medical doctors~~] physicians and osteopathic physicians to
20 covered beneficiaries may be deducted from gross receipts.

21 [~~C.~~] D. Receipts of a health care practitioner or
22 an association of health care practitioners from payments by or
23 on behalf of the Indian health service of the United States
24 department of health and human services for [~~provision of~~]
25 medical and other health services provided by [~~medical doctors~~]

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1 physicians and osteopathic physicians to covered beneficiaries
2 may be deducted from gross receipts.

3 ~~[D.]~~ E. Receipts of a clinical laboratory from
4 payments by the United States government, or any agency
5 thereof, or from a medicare administrative contractor for
6 medical services provided by the clinical laboratory to
7 medicare beneficiaries pursuant to the provisions of Title 18
8 of the federal Social Security Act may be deducted from gross
9 receipts.

10 ~~[E.]~~ F. Receipts of a home health agency from
11 payments by the United States government, or any agency
12 thereof, or from a medicare administrative contractor for
13 medical, other health and palliative services provided by the
14 home health agency to medicare beneficiaries pursuant to the
15 provisions of Title 18 of the federal Social Security Act may
16 be deducted from gross receipts.

17 ~~[F.]~~ G. Prior to July 1, 2024, receipts of a
18 dialysis facility from payments by the United States
19 government, or any agency thereof, or from a medicare
20 administrative contractor for medical and other health services
21 provided by the dialysis facility to medicare beneficiaries
22 pursuant to the provisions of Title 18 of the federal Social
23 Security Act may be deducted from gross receipts.

24 ~~[G.]~~ H. A taxpayer allowed a deduction pursuant to
25 this section shall report the amount of the deduction

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1 separately in a manner required by the department. A taxpayer
2 who has receipts that are deductible pursuant to this section
3 and Section 7-9-93 NMSA 1978 shall deduct the receipts under
4 this section prior to calculating the receipts that may be
5 deducted pursuant to Section 7-9-93 NMSA 1978.

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

17 ~~[H.]~~ J. For the purposes of this section:

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

22 (a) an organization granted exemption
23 from the federal income tax by the United States commissioner
24 of internal revenue as organizations described in Section
25 501(c)(3) of the United States Internal Revenue Code of 1986,
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1 as that section may be amended or renumbered; or

2 (b) a health maintenance organization,
3 hospital, hospice, nursing home or an entity that is solely an
4 outpatient facility or intermediate care facility licensed
5 pursuant to the Public Health Act;

6 (2) "clinical laboratory" means a laboratory
7 accredited pursuant to 42 USCA 263a;

8 (3) "dialysis facility" means an end-stage
9 renal disease facility as defined pursuant to 42 C.F.R.
10 405.2102;

11 (4) "health care practitioner" means:

12 (a) an athletic trainer licensed
13 pursuant to the Athletic Trainer Practice Act;

14 (b) an audiologist licensed pursuant to
15 the Speech-Language Pathology, Audiology and Hearing Aid
16 Dispensing Practices Act;

17 (c) a chiropractic physician licensed
18 pursuant to the Chiropractic Physician Practice Act;

19 (d) a counselor or therapist
20 practitioner licensed pursuant to the Counseling and Therapy
21 Practice Act;

22 (e) a dentist licensed pursuant to the
23 Dental Health Care Act;

24 (f) a doctor of oriental medicine
25 licensed pursuant to the Acupuncture and Oriental Medicine

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1 Practice Act;

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

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

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

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

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

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

14 (m) an osteopathic physician licensed
15 pursuant to the Medical Practice Act;

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

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

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

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

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

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

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

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

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

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

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

19 (7) "medicare administrative contractor" means
20 a third-party administrator operating under contract with the
21 federal centers for medicare and medicaid services to process
22 medicare claims and make medicare fee-for-service payments for
23 medicare fee-for-service beneficiaries;

24 [+7+] (8) "nursing home" means a for-profit
25 entity licensed by the department of health as a nursing home

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and certified to provide medicare services; and

~~(8)~~ (9) "TRICARE program" means the program defined in 10 U.S.C. 1072(7)."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2022.