

1 SENATE BILL 448

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Gregg Schmedes and Mark Moores

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10 AN ACT

11 RELATING TO TAXATION; EXPANDING A GROSS RECEIPTS TAX DEDUCTION
12 FOR HEALTH CARE PRACTITIONERS AND ASSOCIATIONS OF HEALTH CARE
13 PRACTITIONERS TO INCLUDE RECEIPTS FOR THE PAYMENT OF COPAYMENTS
14 AND DEDUCTIBLES.

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

17 SECTION 1. Section 7-9-93 NMSA 1978 (being Laws 2004,
18 Chapter 116, Section 6, as amended) is amended to read:

19 "7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR
20 SERVICES PROVIDED BY HEALTH CARE PRACTITIONER OR ASSOCIATION OF
21 HEALTH CARE PRACTITIONERS.--

22 A. Receipts of a health care practitioner or an
23 association of health care practitioners for commercial
24 contract services or medicare part C services paid by a managed
25 [health] care [provider] organization or health care insurer

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1 may be deducted from gross receipts if the services are within
2 the scope of practice of the health care practitioner providing
3 the service. Receipts from fee-for-service payments by a
4 health care insurer may not be deducted from gross receipts.

5 B. Receipts from a copayment or deductible paid by
6 an insured or enrollee to a health care practitioner or an
7 association of health care practitioners for commercial
8 contract services pursuant to the terms of the insured's health
9 insurance plan or enrollee's managed care health plan may be
10 deducted from gross receipts as follows:

11 (1) prior to July 1, 2024, thirty-three and
12 one-third percent;

13 (2) beginning July 1, 2024 and prior to July
14 1, 2025, sixty-six and two-thirds percent; and

15 (3) beginning July 1, 2025, one hundred
16 percent.

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

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

25 E. The department shall compile an annual report on

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

9 ~~[G. For the purposes of]~~ F. As used in this
10 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 ~~[health]~~ care ~~[provider]~~
2 organization or health care insurer other than those health
3 care services provided for medicare patients pursuant to Title
4 18 of the federal Social Security Act or for medicaid patients
5 pursuant to Title 19 or Title 21 of the federal Social Security
6 Act;

7 (3) "copayment or deductible" means the amount
8 of covered charges an insured or enrollee is required to pay in
9 a plan year for commercial contract services before the
10 insured's health insurance plan or enrollee's managed care
11 health plan begins to pay for applicable covered charges;

12 (4) "fee-for-service" means payment for health
13 care services by a health care insurer for covered charges
14 under an indemnity insurance plan;

15 ~~[(3)]~~ (5) "health care insurer" means a person
16 that:

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

21 (b) contracts to reimburse licensed
22 health care practitioners for providing basic health services
23 to enrollees at negotiated fee rates;

24 ~~[(4)]~~ (6) "health care practitioner" means:

25 (a) a chiropractic physician licensed

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1 pursuant to the provisions of the Chiropractic Physician
2 Practice Act;

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

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

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

10 (e) an osteopathic physician [~~or an~~
11 ~~osteopathic physician assistant~~] licensed pursuant to the
12 provisions of the [~~Osteopathic Medicine~~] Medical Practice 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 the Medical Practice
17 Act;

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;

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 (7) "managed care health plan" means a health
24 care plan offered by a managed care organization that provides
25 for the delivery of comprehensive basic health care services

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1 and medically necessary services to individuals enrolled in the
2 plan other than those services provided to medicare patients
3 pursuant to Title 18 of the federal Social Security Act or to
4 medicaid patients pursuant to Title 19 or Title 21 of the
5 federal Social Security Act;

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

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

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and

[~~(6)~~] (9) "medicare part C services" means services performed pursuant to a contract with a managed health care provider for medicare patients pursuant to Title 18 of the federal Social Security Act."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.