

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 1102

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
PROVIDING A MEDICAL CARE TAX CREDIT; PROVIDING FOR A LONG-TERM
MEDICAL CARE PLAN PURSUANT TO THE MEDICAL INSURANCE POOL ACT.

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:

"~~[NEW MATERIAL]~~ 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
for medical care expenses that are not reimbursed or
compensated for by insurance or otherwise and that are paid by

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underscored material = new
[bracketed material] = delete

1 the taxpayer for that taxpayer or for the taxpayer's spouse or
2 dependent in an amount not to exceed two thousand eight hundred
3 dollars (\$2,800) of an amount equal to ten percent of the
4 expenses paid by the taxpayer that exceed twenty-eight thousand
5 dollars (\$28,000).

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

10 C. The credit provided in this section may be
11 deducted from the taxpayer's income tax liability. If the
12 credit exceeds the income tax liability for the taxable year,
13 the excess shall be refunded to the taxpayer.

14 D. As used in this section:

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

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

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

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

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

5 (b) prescribed drugs or insulin;

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

9 (d) insurance covering medical
10 care, including amounts paid as premiums under Part B of Title
11 18 of the Social Security Act or for a qualified long-term care
12 insurance contract defined in Section 7702B(b) of the Internal
13 Revenue Code, if the insurance or other amount is paid from
14 income included in the taxpayer's adjusted gross income for the
15 taxable year;

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

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

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1 of such care, the cost of meals and lodging are "medical care
2 expenses";

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

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

10 Section 2. A new section of the Medical Insurance Pool
11 Act is enacted to read:

12 "[NEW MATERIAL] LONG-TERM CARE INSURANCE PLAN.--The board
13 may establish a long-term care insurance plan for persons
14 sixty-five years of age or older. A policy for a long-term
15 care insurance plan, if adopted by the board, shall be
16 developed in accordance with the Medical Insurance Pool Act.
17 The plan shall not provide coverage for services covered under
18 medicare or medicaid; provided, however, that services excluded
19 from coverage by medicare or medicaid may be covered under the
20 plan."