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SENATE BILL 416

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Clinton D. Harden

AN ACT

RELATING TO TAXATION; AMENDING THE GROSS RECEIPTS AND
COMPENSATING TAX ACT TO EXEMPT CERTAIN AUTISM TREATMENT SERVICE
PROVIDERS FROM GROSS RECEIPTS TAXATION.

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
Act may be deducted from gross receipts; provided that the

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

6 B. For the purposes of this section:

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

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

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

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

22 (3) "health care practitioner" means:

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

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

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

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

8 (e) an osteopathic physician licensed
9 pursuant to the provisions of Chapter 61, Article 10 NMSA 1978
10 or an osteopathic physician's assistant licensed pursuant to
11 the provisions of the Osteopathic Physicians' Assistants Act;

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

14 (g) a physician or physician assistant
15 licensed pursuant to the provisions of Chapter 61, Article 6
16 NMSA 1978;

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

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

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

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

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1 (l) a registered occupational therapist
2 licensed pursuant to the provisions of the Occupational Therapy
3 Act;

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

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

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

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

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

22 (r) a person licensed by the children,
23 youth and families department or the department of health that
24 provides round-the-clock treatment services for individuals
25 living with autism, including nursing, psychiatry, medication,

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1 staffing, individual therapy, group therapy, family therapy,
2 applied behavioral analysis therapy, room and board and
3 transportation;

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

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

25 (5) "medicare part C services" means services

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1 performed pursuant to a contract with a managed health care
2 provider for medicare patients pursuant to Title 18 of the
3 federal Social Security Act."

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