

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

B. For the purposes of this section:

(1) "commercial contract services" means health care services performed by a health care practitioner 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 the federal Social Security Act or for medicaid patients pursuant to Title 19 or Title 21 of the federal Social Security Act;

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

(a) has a valid certificate of authority in good standing pursuant to the New Mexico Insurance Code [Chapter 59A NMSA 1978] 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 for providing basic health services to enrollees at negotiated fee rates;

(3) "health care practitioner" means:

(a) a chiropractic physician licensed pursuant to the provisions of the Chiropractic Physician Practice Act [Chapter [61](#), Article 4 NMSA 1978];

(b) a dentist or dental hygienist licensed pursuant to the Dental Health Care Act [Chapter [61](#), Article 5A NMSA 1978];

(c) a doctor of oriental medicine licensed pursuant to the provisions of the Acupuncture and Oriental Medicine Practice Act [Chapter [61](#), Article 14A NMSA 1978];

(d) an optometrist licensed pursuant to the provisions of the Optometry Act [Chapter [61](#), Article 2 NMSA 1978];

(e) an osteopathic physician licensed pursuant to the provisions of Chapter [61](#), Article 10 NMSA 1978 or an osteopathic physician's assistant licensed pursuant to the provisions of the Osteopathic Physicians' Assistants Act [[61-10A-1](#) through [61-10A-7](#) NMSA 1978];

(f) a physical therapist licensed pursuant to the provisions of the Physical Therapy Act [[61-12D-1](#) through [61-12D-19](#) NMSA 1978];

(g) a physician or physician assistant licensed pursuant to the provisions of Chapter [61](#), Article 6 NMSA 1978;

(h) a podiatrist licensed pursuant to the provisions of the Podiatry Act [Chapter [61](#), Article 8 NMSA 1978];

(i) a psychologist licensed pursuant to the provisions of the Professional Psychologist Act [Chapter [61](#), Article 9 NMSA 1978];

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

(k) a registered nurse or licensed practical nurse licensed pursuant to the provisions of the Nursing Practice Act [Chapter [61](#), Article 3 NMSA 1978];

(l) a registered occupational therapist licensed pursuant to the provisions of the Occupational Therapy Act [Chapter [61](#), Article 12A NMSA 1978];

(m) a respiratory care practitioner licensed pursuant to the provisions of the Respiratory Care Act [Chapter [61](#), Article 12B NMSA 1978];

(n) a speech-language pathologist or audiologist licensed pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act [Chapter [61](#), Article 14B NMSA 1978];

(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 [Chapter [61](#), Article 9A NMSA 1978] who has obtained a master's degree or a doctorate;

(p) an independent social worker licensed pursuant to the provisions of the Social Work Practice Act [Chapter [61](#), Article 31 NMSA 1978]; and

(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;

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

- (a) health maintenance organizations;
- (b) preferred provider organizations;
- (c) individual practice associations;
- (d) competitive medical plans;
- (e) exclusive provider organizations;
- (f) integrated delivery systems;
- (g) independent physician-provider organizations;
- (h) physician hospital-provider organizations; and
- (i) managed care services organizations; and

(5) "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.

History: Laws 2004, ch. 116, § 6; 2006, ch. 36, § 1; 2007, ch. 361, § 5.