

## N.M. Stat. § 7-9-93

Section 7-9-93 - Deduction; gross receipts; certain receipts for services provided by health care practitioner or association of health care practitioners

**A.** Receipts of a health care practitioner or an association of health care practitioners for commercial contract services or medicare part C services paid by a managed health care provider or health care insurer may be deducted from gross receipts if the services are within the scope of practice of the health care practitioner providing the service. Receipts from fee-for-service payments by a health care insurer may not be deducted from gross receipts.

**B.** The deduction provided by this section shall be applied only to gross receipts remaining after all other allowable deductions available under the Gross Receipts and Compensating Tax Act have been taken and shall be separately stated by the taxpayer.

**C.** For the purposes of this section:

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

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

**(b)** a health maintenance organization, hospital, hospice, nursing home or an entity that is solely an outpatient facility or intermediate care facility licensed pursuant to the Public Health Act [Chapter 24, Article 1 NMSA 1978];

**(2)** "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;

**(3)** "health care insurer" means a person that:

**(a)** has a valid certificate of authority in good standing pursuant to the New Mexico Insurance Code [59A-1-1 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;

**(4)** "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 or an osteopathic physician assistant licensed pursuant to the provisions of the Osteopathic Medicine Act [Chapter 61, Article 10 NMSA 1978];
- (f)** a physical therapist licensed pursuant to the provisions of the Physical Therapy Act [61-12D-1 to 61-12D-19 NMSA 1978];
- (g)** a physician or physician assistant licensed pursuant to the provisions of the Medical Practice Act [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;

**(5)** "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

**(6)** "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.

*NMS § 7-9-93*

Laws 2004, ch. 116, § 6; 2006, ch. 36, § 1; 2007, ch. 361, § 5; 2016 (2nd S.S.), ch. 3, § 5.  
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Amended by 2016SP1, c. 3, s. 5, eff. 11/1/2016.

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