

Minnesota revenue notice number 94-18

Revenue Notice # 94-18 MinnesotaCare: Employee Assistance Programs

Under the MinnesotaCare law, patient services provided by health care providers are subject to tax. Health care providers include persons who furnish services that qualify for reimbursement under the medical assistance program, persons whose health care professions are required to be licensed or registered, and organizations that employ such persons.

Under Minnesota Stat. § 295.50 subd. 9b, patient services include various health care goods and services provided to a patient or consumer. These services include diagnostic and therapeutic services.

Following is an explanation of these terms as it applies to services provided by Employee Assistance Programs (EAP); all services provided by EAP professionals that may be administered only by licensed health care providers are subject to the MinnesotaCare tax. All diagnostic and therapeutic services provided by health care providers are taxable, including diagnostic and therapeutic services provided by employees who are not licensed or registered.

Diagnostic Services. As explained in Revenue Notice # 94-14, diagnostic services are services that enable a health care provider to identify a mental condition through critical scrutiny. Generally, these are services that use diagnostic tools such as the Minnesota Multiphasic Personality Inventory (MMPI), that provide evidence which allows a health care provider to ascertain whether an individual has a mental disorder, impairment, behavior, or condition which lead to a diagnosis such as those conditions listed in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM). Services that use diagnostic tools to identify mental disorders, impairments or conditions are considered diagnostic regardless of the purpose of the services in specific cases. Psychological examinations that are considered medical examinations for purpose of the Americans with Disabilities Act (ADA), and thus may be conducted by an employer only after a conditional offer has been extended, are diagnostic and subject to the MinnesotaCare tax.

Therapeutic Services. As explained in Revenue Notice # 94-14, therapeutic services include services of a healing, curing, rehabilitative or remedial nature. For purposes of services provided by EAP professionals, therapeutic services are those services that respond to a diagnosis by a health care provider.

Examples of taxable services:

Reviewing handling of cases by psychologists employed by managed care organizations;

Examples of non-taxable services:

Consultation and training to management personnel in the identification and resolution of job-performance issues related to employees' personal concerns;

Referrals of employees to other providers for diagnosis, treatment, or assistance;

Monitoring the progress of referrals;

Assessment of problems for purposes of referral to other health care providers.

Counseling regarding personal problems that affect work performance (e.g. teaching communication skills, effective time management) in the absence of a diagnosis of a mental disorder, impairment or condition;

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