

Modified on May 7, 2007.

MINNESOTA DEPARTMENT OF REVENUE

Modification of Revenue Notice # 97-11: MinnesotaCare – Dietetic and Nutrition Care Services *

***With modifications shown (see “Key” below).**

MinnesotaCare Tax – General Background

The MinnesotaCare tax is imposed on gross receipts received for patient services furnished by a health care provider or by an employer of health care providers. As defined in ~~Minn. Stat. § 295.50, subd. 4,~~ Minnesota Statutes, section 295.50, subdivision 4, a health care provider is a person whose health care occupation is regulated or required to be regulated through licensing, registration, or certification by the Minnesota Department of Health, and who furnishes health care goods or patient services directly to a patient or consumer. Health care providers also include persons who provide goods and services that qualify for reimbursement under the medical assistance program as provided in ~~Minn. Stat. Ch. 256B~~ Minnesota Statutes, chapter 256B. Patient services are defined in ~~Minn. Stat. § 295.50, subd. 9b~~ Minnesota Statutes, section 295.50, subdivision 9b, to include health care goods and services provided to a patient or consumer such as medical, surgical, nursing services, drugs, laboratory, diagnostic or therapeutic services, ~~and other services covered by medical assistance.~~ This revenue notice clarifies and supplements Revenue Notices # 94-03 and # 94-14 as they apply to patient services provided by dietetic and nutrition care providers.

Dietetic and Nutrition Care Services

Dietitians, nutritionists, and registered dietetic technicians are required to be licensed or registered by the Minnesota Department of Health; therefore, they are subject to the MinnesotaCare tax when providing dietetic and nutrition care patient services independently or upon a referral by a physician. Dietetic and nutrition care services provided at an entity which employs health care providers, including a physician's office, a clinic, or a hospital are subject to the MinnesotaCare tax. Additionally, all dietetic and nutrition care services performed by other health care providers (e.g., physicians, nurses, physician assistants, chiropractors, dentists, psychotherapists, etc.) are subject to the MinnesotaCare tax. Dietetic and nutrition care services include, but are not limited to, the assessment of nutritional needs; the providing of nutritional counseling; and the development, implementation, evaluation and maintenance of nutrition care services.

Weight loss services, such as the prescription of diet medicines/pills or physical examinations performed by a health care provider (e.g., doctors, nurses, etc.) are subject to the MinnesotaCare tax. However, services of companies that provide only prepackaged (preplanned packages with no individualization per customer) weight loss programs, provide no medical exam, and that do not employ any licensed dietitians, nutritionists, or other health care providers as customer service representatives are not taxable.

Examples of nutrition care services and providers that are subject to the MinnesotaCare tax:

Examples of Nutrition Care Services and Providers That Are Subject to the MinnesotaCare Tax:

- Nutrition care services provided by a self-employed licensed dietitian or nutritionist.
- Nutrition care services provided by a dietitian who is employed by a hospital. The hospital is responsible for the payment of the tax.
- Nutrition care services, including prescription of diet medications or physical examinations, performed by a health care provider (e.g., doctor, nurse, chiropractor, physician's assistant, nurse practitioner). These services are also taxable where a doctor or nurse provides such services while renting space from a weight loss company.
- Services provided by a licensed acupuncturist for weight control.
- Nutritional counseling for weight control services (e.g., psychonutritional services for eating disorders) provided by a psychotherapist.
- Weight control services under the supervision of a physician or nurse.
- Vitamins, minerals, herbal capsules, enzymes, or other food supplements that are provided as part of patient services.

Examples of nutrition care services and providers that are not subject to the MinnesotaCare tax:

Examples of Nutrition Care Services and Providers That Are Not Subject to the MinnesotaCare Tax:

- Research centers that employ licensed dietitians or nutritionists but do not provide patient services.
- Educational services to the general public. For example, community education classroom instructions would not be subject to the tax.

- Patient services ~~Services provided to students by employees of school districts, when the school does not receive payment for the service, or food service companies (including licensed dietitians and nutritionists) who do not provide patient services.~~
- Services provided by a weight loss company that does not employ licensed, registered, or certified health care providers. For example, weight loss retail centers using unlicensed consultants to provide only marketing and distribution information on prepackaged food and dietary supplements are not taxable.
- Services provided by a separate entity that is owned by a health care provider (~~e.g.,~~ dietitian, nutritionist, chiropractor, physician, etc.), but is unrelated to the health care provider's practice and does not employ any health care providers. For example, if a chiropractor owns a weight loss company, but does not provide patient services nor employs any health care providers at the company, such weight loss services would not be taxable. However, a weight loss clinic that is part of a hospital would be subject to the tax for patient services provided.
- Vitamins, minerals, herbal capsules, enzymes, or other food supplements sold to customers separately from patient services.

~~Dated: 2 September 1997~~

~~Jennifer L. Engh~~

~~Assistant Commissioner for Tax Policy~~

JOHN H. MANSUN, Assistant Commissioner
for Tax Policy and External Relations

Publication Date: May 7, 2007

***Key:** Underlining indicates additions to existing Revenue Notice language. Strikeouts indicate deletions from existing Revenue Notice language.

Please see next page for a clean, printable copy of this notice as modified.

MINNESOTA DEPARTMENT OF REVENUE

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****As modified**

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