

Operations Memorandum - Medicaid

OPS100303

March 24, 2010

SUBJECT: Limitation on Allowable Medical Expenses When Determining Payment
Toward Cost of Care

TO: Executive Directors

FROM: Joanne Glover, Director, Bureau of Operations

Purpose

The purpose of this Operations Memorandum is to advise County Assistance Offices (CAOs) of a change in policy regarding what is an allowable medical expense, also known as an "Other Medical Expense" (OME), when determining an individual's payment toward the cost of Long Term Care (LTC) services. This policy is effective immediately.

Background

Our current policy permits any medically-necessary expense, recognized under state statutes, but not covered under the Medical Assistance (MA) Program, as a deduction when determining an individual's payment toward the cost of LTC services. There is no limit on incurred medically-necessary medical expenses. As a result, unpaid LTC medical expenses incurred during an imposed penalty period and LTC medical expenses incurred at the private rate for extended periods of time prior to an application for MA are used as medical expense deductions. This reduces (and often totally eliminates) an individual's payment toward the cost of LTC services for an extended period of time. This requires the MA Program to pay more toward the cost of the LTC services received by an individual.

Discussion

The Federal Government permits states to establish limits on what is an allowable medical expense deduction if a State Plan Amendment (SPA) is submitted and subsequently approved. Pennsylvania submitted an SPA to establish limits and received approval from the Centers for Medicare and Medicaid Services. However, changes were also needed to amend the wording of the Public Welfare Code (PWC) to support the approved SPA. Senate Bill No. 47, signed by Governor Edward G. Rendell on December 17, 2009, provided the amended wording to the PWC. The approved SPA that limits what is an allowable medical expense deduction when determining an individual's payment toward the cost of LTC services can now be implemented.

CAO staff need to be made aware that this policy change does contain one additional provision. The new policy permits these incurred medical expenses as a deduction

when determining payment toward cost of care if the denial would result in an undue hardship for the MA recipient. CAO staff are to review the circumstances of the MA recipient who requests an undue hardship when determining whether to grant or deny the undue hardship applying existing policy and procedures (Operations Memorandum #07-02-09). Additional instructions will be forthcoming to provide guidance on how both the recipient and LTC provider will be notified if a decision is made to grant an undue hardship for an MA recipient and allow these medical expenses as a deduction.

The following limitations will now apply for medical expenses when determining payment toward cost of care and will no longer be permitted as an allowable medical expense deduction:

- LTC expenses incurred six months or more prior to the application for MA; and
- LTC expenses incurred as a result of an imposed penalty.

If	Then
An individual incurs unpaid LTC expenses owed to an LTC facility for a period that exceeds more than six months prior to the application for MA,	The incurred LTC medical expense for the period that exceeds six months is not an allowable medical expense deduction.

If	Then
An individual incurs unpaid LTC expenses owed to an LTC facility during a period of time that a penalty period was imposed resulting from a transfer of asset without receiving fair market value,	The LTC medical expense incurred during the period of time that a penalty period is imposed is not an allowable medical expense deduction.

Examples:

Example 1: Mr. A applies for MA LTC on January 5, 2010. When he applies, he owes the LTC facility \$20,000 for care he received from January 2009 through June 2009.

The \$20,000 that he owes to the LTC facility cannot be used as a medical expense for future months beginning in January 2010.

Example 2: Mr. B applies for MA LTC on January 5, 2010, requesting MA coverage back to October 1, 2009. Mr. B owes the LTC facility for care provided from April 2009 through September 2009 at a cost of \$3,000 per month.

The \$9,000 total owed for LTC medical expenses incurred for the months of July, August and September 2009 can be used as a medical expense deduction when determining Mr. B's payment toward cost of LTC services beginning with authorization of MA LTC, effective October 1, 2009. The \$9,000 total owed for April, May and June 2009 cannot be used as an allowable medical expense deduction. These LTC medical expenses were incurred prior to the time frame of six calendar months prior to date of application for MA.

Example 3: Mr. C applies for MA on January 10, 2010. On March 10, 2010, he sells his home (valued at \$20,000) to his niece for \$1. A penalty period is imposed for the period beginning January 10, 2010 through April 4, 2010 for failure to receive fair market value for his home. On April 5, 2010, Mr. C is notified of eligibility for payment under the MA Program toward cost of care. Mr. C's son calls and states that his father still owes \$5,500 for the LTC services he received from March 1, 2010 through April 4, 2010.

Mr. C's son is advised that the \$5,500 his father owes the LTC facility, as a result of the imposed penalty period, cannot be used as an allowable medical expense deduction when determining Mr. C's payment toward cost of care.

Next Steps

1. Review this information with all staff.
2. Direct any questions to our Area Manager.