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TO: **Income Maintenance Supervisors  
Income Maintenance Lead Workers  
Income Maintenance Staff  
W-2 Agencies  
Workforce Development Boards  
Job Center Leads and Managers  
Training Staff  
Child Care Coordinators**

FROM: Amy Mendel-Clemens  
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Bureau of Eligibility Management  
Division of Health Care Financing

BEM/DWS OPERATIONS MEMO					
No:	08-02				
DATE:	01/04/2008 <b>CORRECTED 01/07/08</b>				
FS	<input type="checkbox"/>	MA	<input checked="" type="checkbox"/>	SC	<input type="checkbox"/>
CTS	<input type="checkbox"/>	CC	<input type="checkbox"/>	W-2	<input type="checkbox"/>
FSET	<input type="checkbox"/>	EA	<input type="checkbox"/>	CF	<input type="checkbox"/>
JAL	<input type="checkbox"/>	JC	<input type="checkbox"/>	RAP	<input type="checkbox"/>
WIA	<input type="checkbox"/>	Other	EP	<input type="checkbox"/>	★
<b>PRIORITY: HIGH</b>					

SUBJECT: **Medical/Remedial Expenses Used for LTC Medicaid Eligibility and Cost Sharing**

**CROSS REFERENCE:** MEH 5.8.6, 5.8.7.7, 5.9 and 5.13

**EFFECTIVE DATE:** **IMMEDIATELY**

**PURPOSE:**

This memo is being issued to communicate a change in both the types of medical/remedial expenses allowed as a deduction from income when calculating a patient liability for an institutionalized person and the change in the process for adjusting the cost share. The new policy described below applies also to Family Care (FC) applicants/participants, both at the Nursing Home and Non-Nursing home level of care and to persons applying for or participating in home and community-based waivers.

**BACKGROUND**

Institutionalized individuals have always been able to use the cost of "current" medical and remedial expenses, which aren't covered services under the Medicaid (MA) program, as a need item in the Institutional MA medically-needy eligibility determination. They were also able to get

an adjustment to their cost share (patient liability) obligation, to allow them to pay for current non-covered services and expenses. In the past, the process to adjust the cost of care involved a claims adjustment between the nursing home provider and the MA fiscal agent (EDS).

Medical/remedial expenses for individuals who are participating in home or community based waivers or FamilyCare are determined by the Care Manager. This process will not change under the new policy. However, there may be expenses that were previously included in the medical/remedial expense amount determined by the Care Manager that will not be allowed under the new policy. The Care Managers will continue to determine the medical/remedial expense amount and will be informed of the new policy through a memo issued from the Division of Disability and Elder Services (DDES).

Federal law permits states to impose reasonable limits on the allowable amounts of medical/remedial expenses. However, these limits must be described in the State Plan and approved by the Centers for Medicaid and Medicare Services (CMS). Wisconsin amended the State Plan with an October 1, 2007 effective date to clarify the medical/remedial expenses that are allowed for an institutionalized individual's MA eligibility determination and cost share obligation.

## **POLICY**

Effective immediately, allowable payments that an institutionalized person is actually making for all medical/remedial expenses they have incurred and are legally obligated to pay, should be used as a need item when determining their eligibility for MA. These actual payments should also be allowed as an income deduction to reduce the cost share amount. This includes payments for medical/remedial expenses that the person is currently incurring as well as payments for certain previously incurred medical/remedial expenses.

In order to use the medical/remedial expense as a need item and as an income deduction in the cost share calculation, the expense must meet the following criteria:

1. The institutionalized individual must be legally liable for payment of the incurred medical/remedial expense. Any portion that will be paid by a legally liable third party such as private health insurance, Medicare, Medicaid, etc. cannot be allowed as a deduction; and
2. The institutionalized individual must provide verification of the allowable expense. (Disallowed expenses are described later in this memo.)

**Example 1:** In February 2008, AI had a root canal performed by a dentist who is not an MA provider. He is responsible for paying \$600 for the procedure. AI began making payments of \$100 per month on this medical bill in March 2008. On April 1<sup>st</sup>, AI became institutionalized and eligible for MA. The \$100 payment that AI is making on a previously incurred medical expense should be used as a need item when determining AI's institutional MA eligibility. The expense should also be used as an income deduction when calculating AI's cost share obligation. The \$100 payment can be used as an income deduction in the cost share calculation until it is fully paid in August. Since AI will no longer be making payments in September, the expense should be decreased to zero prior to adverse action in August.

**Example 2:** In April 2008, Edna applied for Institutional MA and requested a one-month backdate. Her request for eligibility in March was denied because her assets exceeded program limits, but was approved effective April 1<sup>st</sup>. Edna used her excess assets to make a partial payment to the nursing home for March costs, but still has an outstanding balance of \$1,800. Edna agrees to make payments to the nursing home of \$500 per month until the expense is paid in full. The \$500 payment to the nursing home should be used as an income deduction when calculating her cost share for the months of April through June. In July she will only owe \$300 to the nursing home so the deduction for July should be decreased to \$300 prior to adverse action in June. Edna will no longer be making payments in August so the expense should be decreased to zero prior to adverse action in July.

**Example 3:** Jack has been an institutionalized MA recipient since January 2008. In March, he had a tooth extracted. The procedure was performed by a dentist who is not an MA provider, so it was a non-covered service. Jack contacts the agency in April to request a deduction from his cost share so that he can pay the expense. The cost of the extraction was \$209. Since this was a one-time expense and his patient liability exceeds this amount, the agency enters the expense in CWW to reduce the May cost share by \$209.

#### DISALLOWED EXPENSES

Do not allow payments that an institutionalized person is making, or requests to make, as a need item, or as a cost share adjustment if the medical or remedial expense meets any of the following exception reasons:

1. Remains unpaid, but was previously used to meet a Medicaid deductible.
2. Were incurred as the result of imposition of a divestment penalty period.
3. A patient liability or cost share from a previous budget period, whether paid or unpaid, cannot be used as an incurred medical or remedial care expense in a subsequent budget period.
4. Incurred medical and remedial care expenses deducted from income to determine patient liability or cost share in a month cannot be used to determine patient liability or cost share in a subsequent month.

**Example 4:** On September 17, 2007, Alice was hospitalized for injuries she sustained in a fall. Alice was uninsured at the time and incurred a \$2,000 hospital bill. Before leaving the hospital, she set up a payment agreement to pay \$100 per month until the debt was paid. Alice used the outstanding expense to satisfy a deductible in the amount of \$1,800 and was determined MA eligible from September 2007 through February 2008.

In May 2008, Alice was determined to be functionally eligible for Home and Community Based Waivers and was determined eligible for MA under Group B waiver rules. Without a medical/remedial expense, Alice's cost share would be \$100. Alice's Care Manager verified that Alice still owes \$1,200, but only \$200 of the expense is allowable because \$1,800 was already used to satisfy a deductible. Her Care Manager will include the \$100 payment in the medical/remedial expense amount submitted to the IM worker for determining her cost share, but will reevaluate Alice's medical/remedial expense amount in two months.

**Example 5:** On August 1, 2008, Alice moved to a nursing home. Her eligibility for Home and Community Based Waiver ended and she was determined eligible for Nursing Home MA beginning August 1<sup>st</sup>. She is still making the \$100 payments to the hospital, and has an outstanding balance of \$900. However, Alice used \$1,800 to meet a deductible and already received a deduction of \$200 from her community waiver cost share. The payment cannot be used as a medical expense deduction from her income when calculating the monthly patient liability.

**Example 6:** In January 2008, Lyle was institutionalized and applied for MA. Due to a previous divestment, Lyle has a three-month divestment penalty period, beginning in December 2007. During this three month period, MA will not cover the cost of Lyle's institutional care, but will only cover his card services. In March 2008, the divestment penalty period expired, and Lyle is eligible for MA payment of his institutional cost share. He would like to use \$2,000 of his monthly income to pay for the nursing home bills that he incurred in January and February 2008 and deduct this amount from his cost share. The request to allow an adjustment in Lyle's cost share must be denied because the medical expense that he wants deducted from his income is to pay for the cost of institutional care incurred during a prior MA divestment penalty period.

This revised policy regarding the use of medical/remedial expenses for institutional cases should be applied for currently eligible recipients and all new MA applications. This policy change will also be communicated to Care Managers for Community Waivers and Family Care cases.

## **CARES PROCESS**

Until changes in CARES can be made to accommodate this policy and process change for institutional cases, enter the allowable medical and remedial expenses as a court ordered support payment on the Support Obligations/Payments page in CWW. Be sure to document detailed information about the expense and cost share calculations in case comments.

Remember, Medical/remedial expenses for group B waiver cases are still entered on AFME. There are no CARES processing changes/overrides required for community waiver/FC cases.

## **CONTACTS**

BEM CARES Information & Problem Resolution Center

★Program Categories – FS – FoodShare, MA – Medicaid, SC – Senior Care, CTS – Caretaker Supplement, CC – Child Care, W-2 – Wisconsin Works, FSET – Food Stamp Employment and Training, CF – Children First, EA – Emergency Assistance, JAL – Job Access Loan, JC - Job Center Programs, RAP – Refugee Assistance Program, WIA – Workforce Investment Act, Other EP – Other Employment Programs.

DHFS/DHCF/BEM/JU