



State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

July 26, 2024

James G. Scott, Director
Division of Program Operations
Medicaid & CHIP Operations Group
601 East 12th Street, Room 0300
Kansas City, Missouri 64106-2898

RE: LA SPA TN 24-0001 Eligibility – Incurred Medical and Remedial Care Expenses

Dear Mr. Scott:

Please refer to our proposed Medicaid State Plan submitted under transmittal number (TN) 24-0001 with a proposed effective date of January 20, 2024. The purpose of this SPA is to adopt provisions governing incurred medical and remedial care expenses in the determination of financial eligibility for the Medical Assistance Program in order to deduct expenses incurred for necessary medical and remedial care, subject to the reasonable limits, from the individual's income when calculating patient liability to an institution and to limit the time institutions have to report these expenses.

We are providing the following in response to your request for additional information (RAI) dated June 18, 2024:

General Comments/Questions

1. The state has requested to impose as a reasonable limit a disallowance of deductions "for payment of a medical or dental service plan that has not been approved by the Louisiana Department of Insurance in accordance with the Louisiana Insurance Code" (item 2.b.). Undersection 1902(r)(1)(A)(i) of the Social Security Act (the Act) and 42 CFR § 435.725(c)(4)(i), states must include in the post-eligibility treatment of income (PETI) calculation health insurance premiums, deductibles, or coinsurance charges that are not subject to payment by a third party. Please clarify whether this limitation would apply only to policies that have been formally denied approval by the Louisiana Department of Insurance, or includes policies that are under review by, or have not yet been submitted to, the Louisiana Department of Insurance.

LDH Response:

This limitation would apply to policies that have been formally denied approval and policies that have not yet been approved by the Louisiana Department of Insurance.

This reasonable limit has been revised to reflect how the limitation is applied. Please see the attached Supplement 3 to Attachment 2.6-A, Page 1.

2. The state has requested to impose as a reasonable limit a disallowance of deductions "for medical or remedial care expenses that were incurred during a period when the individual is not subject to patient liability" (item 5). Under section 1902(r)(1)(A)(ii) of the Act and 42 CFR §435.725(c)(4)(ii), incurred expenses for necessary medical or remedial care recognized under State law but not covered under the State's Medicaid plan that is not subject to third party payment must be deducted in the PETI calculation. CMS interprets "not covered under the State's Medicaid plan" to include (but not be limited to) medical or remedial services a recipient receives prior to attaining Medicaid eligibility which are included in the state plan but for which the state Medicaid agency does not pay; e.g., medical services an individual received during the three months preceding their Medicaid application ("retro period"), which are otherwise covered under the state Medicaid plan but for which the state agency does not pay because the individual did not meet all eligibility requirements during their retro period. The statute and regulation allow states to impose optional "reasonable limits" on incurred medical or remedial expenses, subject to CMS' approval. CMS has approved as a reasonable limit the disallowance of expenses incurred before an individual's retro period. However, the state's request to broadly disallow all incurred expenses received when an individual is not subject to patient liability would include circumstances in which an individual receives services, such as nursing facility (NF) services, during their retro period and does not receive coverage for the NF services due to the individual not meeting all Medicaid eligibility requirements during the retro period. As such, this is not a reasonable limit. Please revise the request to describe a reasonable limit or remove this language from the SPA submission.

LDH Response:

This reasonable limit has been revised. Please see the attached Supplement 3 to Attachment 2.6-A, Page 1.

Please consider this as a formal request to begin the 90-day clock. As always, we appreciate the assistance and guidance CMS has provided in resolving these issues. We trust this RAI response will result in the approval of the pending SPA. If additional information is required, you may contact Marjorie Jenkins via email at Marjorie.Jenkins@la.gov or by phone at (225) 342-3881.

Sincerely,

Kimberly Sullivan

Kimberly Sullivan, J.D.
Medicaid Executive Director

KS:MJ:KC

Attachment

State: LOUISIANA

Reasonable Limits on Amounts for Necessary Medical or Remedial Care
Recognized Under State Law but Not Covered Under the State Plan

Citation

42 CFR 435 Subparts H and I

Reasonable Limits

1. For medically necessary care, services, and items not paid under the Medicaid State Plan or, if covered under the Medicaid State Plan, denied due to service limitations. The medical or remedial care must be:
 - a. recognized under state law;
 - b. medically necessary as verified by an independent licensed physician or medical director; and
 - c. incurred no earlier than three months preceding the month in which it is reported to the state.
2. The medical or remedial care cannot be:
 - a. for cosmetic or elective purposes, except when medically necessary as verified by an independent licensed physician or medical director; and/or
 - b. for payment of a medical or dental service plan that has not been approved by the Louisiana Department of Insurance in accordance with the Louisiana Insurance Code or is sold by an entity not licensed by the Louisiana Department of Insurance to engage in the business of making contracts of insurance in the state of Louisiana.
3. The deduction for medical and remedial care expenses that were incurred as a result of imposition of transfer of assets penalty period is limited to \$0.
4. The deduction for medical and remedial care expenses that were incurred as a result of the individual's equity interest in the home, exceeding the limit established under 42 U.S.C. §1396p(f), is limited to \$0.
5. ~~The deduction for medical or remedial care expenses that were incurred during a period when the individual's income does not exceed the personal needs allowance is not subject to patient liability is limited to \$0.~~

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