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Question: My client is disabled and needs long-term care. What kinds of services or medical expenses can be counted toward my client's medically needy "spend down?"

Answer: The Medicaid laws allow for a broad range of medical expenses to be counted. You should work with your clients to identify their existing and anticipated medical expenses to determine whether the medically needy program is an option.

The Medicaid Act allows states to offer "medically needy" programs. The majority of states have elected this option, which allows individuals who would otherwise be over-income for Medicaid to qualify for the program. To qualify as a medically needy person, the applicant's income minus medical expenses must be less than the Medicaid medically needy income level. In other words, the applicant must spend down the excess income or "incur" a certain amount of medical expenses before Medicaid will cover other medical bills. After the applicant meets her "spend down," then Medicaid will pay for all covered services for the rest of the "spend down" period (which can be a period of one to six months, at state option.)

One issue that commonly arises with the medically needy program concerns what medical expenses can be counted toward the "spend down" amount. The law is broad. Deductible expenses include: (1) Medicare and other health insurance premiums, and deductibles such as enrollment fees and co-payments, and (2) "[e]xpenses incurred by the individual or family or financially responsible relatives for necessary medical and remedial services" that are recognized under State law, but not included in the state plan, or "are included in the plan, including those services that exceed agency limitations on amount, duration, or scope of services." Both paid and unpaid bills can be counted, and in some cases, old bills can be used. See 42 C.F.R. § 435.831(e.); HCFA, State Medicaid Manual § 3628.

Many expenses can fall within the broad definition of "necessary medical and remedial services." For individuals with disabling or chronic conditions, there are a number of expenses that can be covered, including: hospital, physician, and home health care; personal care services, including attendant services to take the client in and out of a facility placement or for time spent in between tasks if at home; additional visits to a speech or physical therapist above your state's service limitations; cognitive rehabilitation for post-stroke and head trauma patients; medically necessary prescriptions that are not on the state's Medicaid formulary; medical equipment, including bedding; the cost of transportation to the hospital, doctor, or drugstore; over the counter drugs such as cold medications, laxatives; bandages, cotton balls, needles, crutches, and braces; and dentures, eyeglasses, and hearing aids. Remember that an applicant can use their own medical bills and the bills of other members of the household.

Advocacy tips to meet a recipient's "spend down" include the following:

1. Use any unpaid or paid medical bills that the recipient or the recipient's family incurs;
2. Have the physician write out a prescription for any "medical and remedial service,"(including over the counter drugs) explaining the need for the services, goods, or equipment (for example, for high blood pressure or a stomachache)
3. Check with the doctor or home health agency to see if they will submit your bills directly; however, if it will be faster for your client to submit the bill directly, do this.
4. If Medicaid will not accept your client's bills, request a denial letter or notice of action and request a fair hearing.