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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 91 ADM-11

TO: Commissioners of
 Social Services

DIVISION: Medical
 Assistance

DATE: March 7, 1991

SUBJECT: Medical Expenses Paid/Incurred
 by a Public Program of the State
 or Its Political Subdivisions

SUGGESTED DISTRIBUTION:	Medical Assistance Staff Fair Hearing Staff Legal Staff Staff Development Coordinators
CONTACT PERSON:	MA Eligibility County Representative at 1-800-342-3715, extension 3-7581; MA New York City Representative at (212) 417-4853
ATTACHMENTS:	Attachment I - Medical Expenses Paid/Incurred by a Public Program (available on-line) Attachment II - Sample of Completed Form (available on-line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
87 ADM-4		360-4.8(c)	OBRA 1987		
87 INF-19		(1)	(P.L. 100		
		360-7.3(c)	-203)		
		(1)	SSA 1902		
			(a)(17)		

I. PURPOSE

This Directive advises social services districts of a change in the Social Security Act (Act) concerning the use of medical and remedial care expenses paid by a public program of the State, or a political subdivision of the State, as incurred medical expenses in determining Medical Assistance (MA) eligibility.

II. BACKGROUND

Medically needy persons whose incomes exceed MA income eligibility standards may obtain MA coverage by spending down their excess income, that is, by incurring medical expenses equal to or greater than the amount of their excess income (spenddown amount). 87 ADM-4 outlines the application of paid or incurred expenses for medical or remedial care recognized under State law towards meeting a spenddown to be eligible for MA. The Omnibus Budget Reconciliation Act (OBRA) of 1987 (P.L. 100-203) amended Section 1902(a)(17) of the Act to require that incurred medical expenses paid by a public program of the State or its political subdivisions must be counted as medical expenses under the spenddown provisions for persons not in chronic care. Prior to this amendment, expenses paid by non-legally liable third parties, including public programs of the State or its political subdivisions, were not includable as medical expenses to meet the spenddown amount. Department regulations (18 NYCRR 360-4.8(c)(1) and 360-7.3(c)(1)) were revised to reflect this amendment, effective March 21, 1990.

III. PROGRAM IMPLICATIONS

- A. Medical expenses paid for or incurred by public programs of the State or its political subdivisions are includable as medical expenses to meet the spenddown amount of an applicant/recipient (A/R). This will enable an A/R to obtain eligibility for MA more readily.
- B. A public program means a program that is operated (i.e., administratively controlled) by the State, or a political subdivision of the State. The State has a number of State and/or locally administered public programs which provide medical or remedial care, or which pay medical expenses for persons who are not eligible for MA. Such programs include: the Expanded In-Home Services for the Elderly Program (EISEP), the Elderly Pharmaceutical Insurance Coverage Program (EPIC), the Physically Handicapped Children's Program (PHCP), programs administered by the Office of Mental Health (OMH) and the Office of Mental Retardation and Developmental Disabilities (OMRDD), the AIDS Drug Assistance Program (ADAP), and the Child Health Insurance Program (CHIP). Medical expenses paid by local public school districts, counties, or municipalities on behalf of children with handicapping conditions or children suspected of having handicapping conditions

should also be used to meet the spenddown amount of an MA A/R (e.g., BOCES). By enabling more individuals to become eligible for MA, these public programs will be able to provide or pay for more medical services/remedial care to more individuals without increased State and local funding.

C. 18 NYCRR 360-4.8(c)(1) states, in part, that:

"...The social services district will deduct from the applicant's income the following medical expenses incurred by the applicant, by family members living with the applicant for whom the applicant is legally responsible, and by legally responsible relatives living with the applicant, in the order listed below and regardless of whether these expenses are subject to payment by another public program of the State or any of its political subdivisions:

- (i) expenses incurred for Medicare and other health insurance premiums, deductibles, or coinsurance charges;
- (ii) expenses incurred for necessary medical and remedial services that are recognized under State law but are not covered by MA; and
- (iii) expenses incurred for necessary medical and remedial services that are covered under the MA Program."

Where prior authorization requirements must be met in order for medical expenses to be paid under the MA Program:

1. Necessary medical expenses incurred in the three months prior to application are used to meet the spenddown amount under the provisions of 18 NYCRR 360-4.8(c)(1)(ii). Verification of the medical necessity of care, services or supplies for a retroactive time period may be made by physician's orders, or nursing/social assessments obtained either during or after the relevant time period.
2. Once an A/R is notified in writing of the assessment plan (type, amount and frequency of services needed), only the type and amount of services included in the plan are used to meet the spenddown amount.

IV. REQUIRED ACTION

As detailed in 87 ADM-4, medical expenses paid by the individual, family or legally responsible relative during the month of application and the three preceding months are used to meet the spenddown amount unless such expenses have been paid by, or are subject to payment by, a legally liable third party other than a legally responsible relative. In addition, effective with this Directive, social services districts must use medical expenses paid or incurred by a public program of the State or its political subdivisions to meet the spenddown amount of an MA A/R.

Social services districts must obtain documentation which verifies the nature of the medical and remedial services provided, the date(s) of service, the amount paid by the individual and/or third-party health insurance, and the actual amount or value of the medical service(s) paid for or incurred by the public program.

V. ADDITIONAL INFORMATION

Attachment I is a form mandated for general use by a public program to submit to the social services district for verification of medical expenses paid/incurred by the public program. Attachment II is an example of the form completed by the EPIC Program.

The social services district may provide the A/R with the form, or may send the form directly to the public program on the A/R's behalf. When contacting the public program directly, a signed statement from the A/R authorizing the release of the information must be included with the district's request. Districts may also wish to provide a supply of these forms to the public programs operating within their jurisdictions.

The use of forms other than the mandated form (Attachment I) must be submitted for review and approval to:

Pat Bartlett
New York State Department of Social Services
Office of Administrative Support Services
40 North Pearl Street
Albany, New York 12243

Format alterations for the purpose of adapting the form to meet district and/or public program computer needs may be permitted, but must have prior approval of the Department.

VI. EFFECTIVE DATE

The provisions of this Directive are effective March 1, 1991, retroactive to March 21, 1990, the date of filing of the regulations.

Jo-Ann A. Costantino
Deputy Commissioner
Division of Medical Assistance