

SUBPART B: ASSISTANCE STANDARDS

Section 120.61 Long Term Care

This Section applies to persons residing in long term care facilities or State-certified, State-licensed, or State-contracted residential care programs who, as a condition of eligibility for medical assistance, are required to pay all of their income, less certain protected amounts, for the cost of their own care.

- a) The term "long term care facility" refers to:
 - 1) an institution (or a distinct part of an institution) that meets the definition of a "nursing facility" as that term is defined in 42 USC 1396r;
 - 2) licensed Intermediate Care Facilities (ICF and ICF/DD), licensed Skilled Nursing Facilities (SNF and SNF/Ped) and licensed hospital-based long term care facilities (see 89 Ill. Adm. Code 148.50(c)); and
 - 3) Supportive Living Facilities (SLF) and Community Integrated Living Facilities (CILA).
- b) The eligibility period shall begin with:
 - 1) the first day of the month of application;
 - 2) up to three months prior to the month of application for any month in which the person meets both financial and non-financial eligibility requirements. Eligibility will be effective the first day of a retroactive month if the person meets eligibility requirements at any time during that month; or
 - 3) the first day of a month, after the month of application, in which the person meets non-financial and financial eligibility requirements.
- c) Eligibility Without Spenddown
 - 1) A one-month eligibility period will be used. If a person's nonexempt income available during the eligibility period is equal to or below the applicable income standard and nonexempt resources are not in excess of the applicable resource disregard (see Section 120.382), the person is eligible for medical assistance from the first day of the eligibility period without a spenddown.
 - 2) A person eligible under this subsection (c) is responsible for reporting any changes that occur during the eligibility period that might affect eligibility for medical assistance. If changes occur, appropriate action shall be taken

by the Department, including termination of eligibility for medical assistance. If changes in income, resources or family composition occur that would make the person a spenddown case, a spenddown obligation will be determined and subsection (d) will apply. A redetermination of eligibility shall be made at least every 12 months.

d) Eligibility with Spenddown

- 1) If countable income available during the eligibility period exceeds the applicable income standard and/or nonexempt resources exceed the applicable resource disregard, a person has a spenddown obligation that must be met before financial eligibility for medical assistance can be established. The spenddown obligation is the amount by which the person's countable income exceeds the applicable income standard or nonexempt resources exceed the applicable resource disregard.
- 2) A person meets the spenddown obligation by incurring or paying for medical expenses in an amount equal to the spenddown obligation. Medical expenses shall be applied to the spenddown obligation as provided in Section 120.60(c).
- 3) Projected expenses for services provided by a long term care facility that have not yet been incurred, but are reasonably expected to be, may also be used to meet a spenddown obligation. The amount of the projected expenses is based on the private pay rate of the long term care facility at which the person resides or is seeking admission.
- 4) A person who has both an income spenddown and a resource spenddown cannot apply the same incurred medical benefits to both. Incurred medical expenses are first applied to an income spenddown.

e) Post-eligibility Treatment of Income. If non-financial and financial eligibility is established, a person's total income, including income exempt and disregarded in determining eligibility, must be applied to the cost of the person's care, minus any applicable deductions provided under subsection (f).

f) Post-eligibility Income Deductions. From a person's total income that is payable for a person's care, certain deductions are allowed. Allowed deductions shall increase the amount paid by the Department for residential services on behalf of the person, up to the Department's payment rate for the facility. Deductions shall be allowed for the following amounts in the following order:

- 1) SSI benefits paid under 42 USC 1382(e)(1)(E) or (G) and, for residents of Supportive Living Facilities, the minimum current SSI payment standard for an individual (or a couple, if spouses reside together), less the personal needs allowance specified in subsection (f)(2)(C) of this Section, shall be

deducted for room and board charges (see 89 Ill. Adm. Code 146.225(c) and (d));

- 2) a personal needs allowance:
 - A) for persons other than those specified in subsections (f)(2)(B) through (F), \$30 per month;
 - B) for spouses residing together, \$60 per couple per month (\$30 per spouse);
 - C) for persons or spouses residing in Supportive Living Facilities, \$90;
 - D) for persons residing in Community Integrated Living Arrangements (see 59 Ill. Adm. Code 115); ~~-\$60 per month, with dates of service beginning on or after 9/1/14;~~
 - i) \$50 per month, for dates of service prior to 9/1/14;
 - ii) \$60 per month, for dates of service on or after 9/1/14 through 6/30/15;
 - iii) \$50 per month, for dates of service on or after 7/1/15.
 - E) for veterans who have neither a spouse nor dependent child, or surviving spouses of veterans who do not have a dependent child, and whose monthly veterans' benefits are reduced to \$90, a \$90 income disregard is allowed in lieu of a personal allowance deduction. Persons allowed the \$90 per month income disregard are not also permitted the \$30 per month personal allowance; or
 - F) for persons residing in an Intermediate Care Facility for Individuals with Developmental Disabilities (ICF/DD) licensed under the ID/DD Community Care Act [210 ILCS 47]; ~~-\$60 per month, with dates of service beginning on or after 9/1/14;~~
 - i) \$30 per month, for dates of services prior to 9/1/14;
 - ii) \$60 per month, for dates of service on or after 9/1/14 through 6/30/15;
 - iii) \$30 per month, for dates of service on or after 7/1/15.
- 3) a community spouse income allowance pursuant to Section 120.379(e);
- 4) a family allowance pursuant to Section 120.379(e)(2);

- 5) an amount to meet the needs of qualifying children (as defined in 26 USC 152) under age 21 who do not reside with either parent, who do not have enough income to meet their needs and whose resources do not exceed the resource limit. To determine needs and resource limits:
 - A) the MANG(C) and applicable resource disregard are used (see Sections 120.30 and 120.382); and
 - B) any payments made on medical bills for the children can be deducted from the person's income;
- 6) amounts for incurred expenses for certain Medicare and health insurance cost sharing that are not subject to payment by a third party, limited to:
 - A) Medicare premiums, deductibles, or coinsurance charges not paid by Medicaid or another third party payor;
 - B) Other health insurance premiums, deductibles or coinsurance (cost sharing) charges provided the insurance meets the definition of a "health benefit plan" and is approved for providing that insurance in Illinois by the Illinois Department of Insurance.
 - i) "Health benefit plan" means any accident and health insurance policy or certificate, health services plan contract, health maintenance organization subscriber contract, plan provided by a MEWA (Multiple Employer Welfare Arrangement) or plan provided by another benefit arrangement.
 - ii) Health benefit plan does not mean accident only, credit, or disability insurance; long-term care insurance (except for the month of admission to a long term care facility); dental only or vision only insurance; specified disease insurance; hospital confinement indemnity coverage; limited benefit health coverage; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical payment insurance; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance;
- 7) Expenses Not Subject to Third Party Payment for Necessary Medical Care Recognized under State Law, but Not a Covered Service under the Medical Assistance Program. "Necessary medical care" has the meaning

described in Section 2 of the Comprehensive Health Insurance Plan Act [215 ILCS 105/2] and must be proved as such by a prescription, referral or statement from the patient's doctor or dentist. The following are allowable deductions from a person's post-eligibility income for medically necessary services:

- A) expenses incurred within the six months prior to the month of an application, provided those expenses remain a current liability to the person and were not used to meet a spenddown. Medical expenses incurred during a period of ineligibility resulting from a penalty imposed under Section 120.387 or 120.388 are not an allowable deduction;
 - B) expenses incurred for necessary medical services from a medical provider (subject to reasonable dollar limits on specific services) so long as the provider was not terminated, barred or suspended from participation in the Medical Assistance Program (pursuant to 89 Ill. Adm. Code 140.16, 140.17 or 140.18) at the time the medical services were provided; and
 - C) expenses for long term care services, subject to the limitations of this subsection (f)(7) and provided that the services were not provided by a facility to a person admitted during a time the facility was subject to the sanction of non-payment for new admissions (see 305 ILCS 5/12-4.25(I)(3));
- 8) Amounts to maintain a residence in the community for up to six months when:
- A) the person does not have a spouse and/or dependent children in the home;
 - B) a physician has certified that the stay in the facility is temporary and the individual is expected to return home within six months;
 - C) the amount of the deduction is based on:
 - i) the rent or property expense allowed under the AABD MANG standard if the person was at home (see 89 Ill. Adm. Code 113.248); and
 - ii) the utility expenses that would be allowed under the AABD MANG standard if the person was at home (see 89 Ill. Adm. Code 113.249).

(Source: Amended at 39 Ill. Reg. _____, effective _____)