# COMBINED MEDICAID 702-1
# Medical Expense Option

**Supersedes: FMA** & MA 703-1 (01/01/2020)

**Reference:** 42 CFR 435.831; 42 CFR 440.60, .170, 180, .441; and ARM 37.82.101, .1107, .1111

**Overview:** Clients must meet their spend down obligation before medically needy Medicaid coverage is established. Clients can choose to meet their spend down by incurring medical expenses equal to the spend down amount.

Note: Medical expenses that are paid, or will be paid, by an insurance company or other third party cannot be used to meet or reduce the spend down amount.

**EXPENSES THAT CAN BE USED TO MEET/REDUCE SPEND DOWN:**

Medical expenses that meet the following criteria can be used to reduce/meet the spend down obligation:

1. The client or a financially responsible relative received the service; (see Financially Responsible Relative" below)
2. The service is recognized under Federal/Montana law as Medicaid payable;
3. The client is financially responsible for the service; and,
4. The service is medically necessary.

**NOTE:** Waiver services are those services furnished 'under a waiver' (i.e., a waiver program is open). Because private-pay charges in an assisted living facility are not furnished under a waiver, they are not recognized as medical expenses under either the Montana Medicaid State Plan or under state law. As such, **assisted living facility private-pay charges cannot be used to reduce the spend down**.

Examples of expenses allowed:

1. **Paid** and **unpaid** medical expenses incurred during the benefit month;
    a. Current months expenses are only allowed if the expenses would not be covered by Medicaid if the client is determined eligible (whether or not the spend down is paid) or when completing a partial month's eligibility (one-day authorization).

2. **Paid** and **unpaid** medical expenses incurred during the three months preceding the benefit month; and
3. Current payments on bills incurred more than 3 months before the benefit month and not previously used to reduce the spend down or paid by Medicaid.

4. Paid or unpaid bills incurred during the three months immediately prior to the retroactive budget period.
   **Note:** The paid and unpaid expenses for sections 1-4 must be for the provider or a collection agency for the provider; The bill must still be owed to the provider. Once the provider has been paid in full, the bill is no longer owed to them. If the client used a loan to pay the bill, it has changed form and is no longer an outstanding medical bill, but rather a bill to a lender.
   A collection agency is not a third party. The bill is still owed to the provider, and the collection agency is simply assisting in collecting the debt.

Institution charges incurred while the client was serving an ineligibility period due to an uncompensated asset transfer cannot be used to reduce the spend down or as incurred medical expenses to reduce the patient liability toward cost-of-care in post-eligibility treatment of income. Medical bills/documentation not received during a time when they can be used to meet or reduce the spend down cannot be used.

Medical bills or current payments on old bills can be used to meet the spend down in the month paid, and amounts over the spend down amount remaining will be applied to the 3 months following the month paid or until the payment amount is used in full to reduce spend downs, whichever occurs earlier. Bills or payments made are not usable if more than 3 months old.

**MEDICAL EXPENSE DEDUCTIONS:**

Medical expenses used to meet/reduce a spend down must:

1. Not have already been used to meet/reduce another months spend down;
2. Not be for a Medicaid-covered service in a month the client was receiving Medicaid, regardless of whether or not the client has paid the spend down;
   **NOTE:** Medical travel that occurs before the client applies for Medicaid can be used to reduce the spend down; however, medical travel in a Medicaid-covered month is a Medicaid-covered service and cannot be used. Medicaid travel in a non-Medicaid covered month is calculated based on the Medicaid Transportation mileage reimbursement rate of $.33/mile (or current rate verified with MPQH).
3. Not be a Medicare or Qualified Medicare Beneficiary (QMB) covered service incurred during a month of Medicare Savings Program (MSP) eligibility;
4. Not be subject to payment by a third party (unless reasonable measures have been taken to determine the liability of the third party);
5. Expenses for a medical service not yet received cannot be anticipated.

6. Verified active health insurance and Medicare premiums for the benefit month can be used to reduce the spend down.
7. Be deducted in a specific order:
    a. Medical expenses incurred in the previous 3 months, chronologically;
    b. Medicare and/or health insurance premiums, regardless of date of month due, are used before other current month medical expenses;
        i. Medicaid pays Medicare Part B premiums for medically needy clients who also receive QMB or SLMB; do NOT use the Part B premium to reduce/meet the spend down.
        ii. Because Medicaid and MSP clients are automatically enrolled in Social Security Extra Help, these premiums are not allowed to reduce/meet the spend down. However, if the client is enrolled in enhanced or premium PDP, the difference between the basic and higher-level PDP premium can be allowed.
    c. Be medically necessary care or any other type of remedial care recognized under Montana law, which must be furnished by a licensed medical practitioner within the scope and limitations of their medical practice as defined by state law, but which is <u>not</u> a benefit of the Medicaid program (e.g., chiropractic) are deducted chronologically after all Medicare and/or health insurance premiums.

    <u>Examples (not all-inclusive)</u>: Goods and services that do not meet this definition include health club memberships, hot tubs, travel to services which themselves do not meet this definition, durable medical equipment that is not included in the Montana Medicaid State Plan, shoes, vitamins, etc., even if prescribed by a physician.

    d. Expenses for Medicaid-covered services are deducted chronologically after allowable expenses listed in a., b., and c. above.

**<u>SERVICES RECOGNIZED UNDER STATE LAW</u>:**

Services which State or federal law require a licensed medical practitioner to provide or prescribe can be used to reduce/meet the spend down.

**NOTE:** Because naturopathic physicians are licensed to provide services in Montana, those expenses can be used to reduce/meet the spend down. However, they are not licensed to prescribe drugs, so the cost of any medicines purchased through naturopaths cannot be used.

Services recognized under state law include services which are normally payable by Medicaid, but which exceed the agency's limits on amount, duration or scope of services. **For example**: if Medicaid limits the number of physical therapy visits per year to 25, the 26$^{th}$ and subsequent visits are allowable to reduce the spend down. Similarly, because Medicaid travel reimbursements are set at a minimal per diem amount, additional **<u>unreimbursed</u>** travel costs (such as hotel costs higher than reimbursed amount) can be used to reduce the spend down. Travel expenses must be preapproved through Medicaid Travel

Medical Marijuana, including dispensary purchases, or related products are not recognized under federal law and cannot be used to meet/reduce a spend down even when recommended by a physician.

Except as listed below, products or services available without a prescription cannot be used to reduce the spend down. The following services/products are Medicaid-covered services recognized under state law and as long as prescribed by a physician, must be used to reduce the spend down:

**NOTE: State** law requires prescriptions to be renewed annually.

1. Diabetic supplies (including glucose test strips, insulin and syringes);
2. Antacids;
3. Analgesics containing aspirin;
4. Laxatives;
5. Medication to eradicate lice infestation;
6. $H_2$ antagonist gastrointestinal products (such as Zantac);
7. Broncho saline;
8. Nicoderm;
9. Adult diapers if the client:
    a. is over age three;
    b. has a diagnosis of incontinence; and
    c. does not reside in a nursing home;
10. Monthly personal vehicle costs for medical transportation at $.33 per mile provided Medicaid was not open on the travel date (medical transportation is a Medicaid-covered service).
11. Medically necessary personal care services <u>provided by an enrolled Medicaid provider</u>;
12. Mail order postage costs for prescription drugs and other services listed above when provided by a pharmacy in a community different than the client's residence. Pharmacy delivery changes are not allowed.

**<u>HEALTH INSURANCE PREMIUMS</u>:**

Health insurance premiums due less frequently than monthly cannot be prorated over the coverage period. However, any premium amount exceeding the spend down obligation can be carried forward to reduce/meet future months spend down obligations. **NOTE:** This policy also applies to clients residing in a nursing home.

Insurance premiums for specific illness/situation policies, such as cancer or long-term care policies can be used to reduce/meet the spend down, even if the client currently does not have the specific illness/situation. General indemnity policies that are not limited to a specific illness or situation cannot be used to reduce the spend down.

**<u>BILLS WITH THIRD PARTY INVOLVEMENT</u>:**

The state must take reasonable measures to determine a third party's legal liability to pay a medical expense. This includes Medicare, other health insurance, and coverage as a result of an accident. However, eligibility determination is not delayed because this liability cannot be verified.

**FINANCIALLY RESPONSIBLE RELATIVE:**

**Family Medically Needy:** If living in the home, the client's, their parents and their minor siblings' expenses can be used to meet the clients spend down. For Qualified Pregnant Woman, all filing unit member's medical expenses can be used.

**ABD Medically Needy:** Only the client's and their deemed spouse's (if married adult) or their deemed parents' (if a minor) medical expenses can be used to reduce the spend down obligation. Use the following to determine whose bills can be used:

1. Only the client's bills – deemed income was not used to determine the client's eligibility;
2. The client's and their ineligible parents' bills – parental income was deemed to the client and used to determine income eligibility;
3. The client's and their ineligible spouses' bills – spousal income was deemed to the client and used to determine income eligibility; or
4. Both spouses' bills – husband and wife both meet all eligibility criteria.

**VA AID & ATTENDANCE:**

VA Aid and Attendance (VA A&A) is monetary compensation paid to a veteran that is expected to cover the veteran's current month out-of-pocket medical costs. The out-of-pocket medical costs must be current month's bills and generally include:

- Current month medical bills,
- Current month VA A&A approved medical services, and
- Current month health insurance premiums
- Previous months bills that were not covered by Medicaid due to partial month eligibility

**NOTE:** The VA considers some expenses as medical expenses that Medicaid does not. Expenses the VA considers medical expenses can be used to offset the VA A&A, but not the Medicaid portion of the spend down.

VA A&A is not considered income; it is considered a third-party liability payment and therefore is not included when determining the spend down amount. The only time a spend down is evaluated for an A&A case, is if the veteran's out-of-pocket medical needs exceed the A&A payment they receive. Medical expenses used to offset the VA A&A are considered paid by a third party and **cannot be carried forward** to a future benefit month.

The Cash option cannot be used to meet/reduce the spend down for a veteran who receives A&A. The spend down can only be met when the veteran incurs enough bills to meet **both their A&A amount AND their spend down amount.** This results in a partial month eligibility in many cases. The medical expense option must be used if any filing unit member, whose income is used to determine eligibility and spend down amount, receives VA A&A. For information on calculating the amount of A&A in a VA payment, see CMA 501-1 Unearned Income

**MEDICAID PAYMENT:**

Montana Medicaid pays unpaid medical expenses that:

1. An eligible client incurs during a retroactive or prospective eligibility period;
2. Weren't used to reduce/meet a spend down in a one-day authorization;
3. Are not the responsibility of a third party; and
4. **NOTE:** If reasonable measures to determine the third party's liability have been taken and the third party has not yet paid their portion of the expense, the portion that remains the client's responsibility can be used to reduce/meet the spend down.
5. Are Medicaid-covered services.

**Effective Date:** 11/01/2026