The Department of Public Welfare (DPW) implemented a policy change regarding what medical expenses are allowable as deductions from income when determining a nursing home resident’s payment toward his or her cost of care. Specifically, unpaid long-term care expenses incurred more than six months prior to an application for Medical Assistance and nursing home bills unpaid because of a transfer penalty, are no longer allowable as deductions from the income otherwise payable to the nursing home. This rule pertains only to the deduction of such expenses from the patient pay liability, i.e., payment of a nursing home resident’s income to the facility, and does not in any way prevent the retroactive authorization of benefits that would otherwise be permitted.

Applicable regulations set forth what income a Medicaid recipient residing in a nursing facility must pay toward his or her cost of care and specify certain allowable deductions. 55 Pa. Code §181.452(e). Examples of such deductions from the payment toward the cost of long-term care include: the personal needs allowance ($45), a spousal allowance, dependent care allowance, home maintenance allowance for short-term stays and a deduction for “Other Medical Expenses.” The most common example of a medical expense deducted from income is probably the recipient’s supplemental health insurance policy premium, but an “OME” can include a variety of medical expenses not paid by the Medical Assistance Program, including unpaid long-term care medical expenses (i.e., old nursing home bills incurred prior to the MA effective date.) See, 55 Pa. Code §181.452(d)(5)(iii). These debts to the nursing facility can result when an MA application is filed late, or the spend-down of excess resources on non-medical expenses leaves a gap of ineligibility.

Prior DPW policy allowed a nursing facility to “chip away” at an old arrearage such as these by applying a resident’s income toward the receivable, thereby reducing or eliminating the MA recipient’s payment toward the cost of care. This approach naturally increased the amounts paid to nursing homes by the Medical Assistance Program. The Department of Public Welfare sought to impose limits on the deductibility of medical expenses.

Following the enactment of legislation, Act 54 of 2009, and subsequent approval of a State Plan Amendment submitted by the commonwealth to the Centers for Medicare and Medicaid Services, the Pennsylvania Department of Public Welfare eventually issued “Operations Memorandum OPS100303,” which is now being implemented. As a result, long-term care expenses incurred six months or more prior to the application for Medical Assistance benefits are no longer permitted as deductions from the MA recipient’s payment toward the cost of care. Additionally, where the arrearage to the nursing facility is due to the imposition of a “transfer penalty,” those unpaid long-term care expenses are likewise not to be deducted from the payment of income toward the cost of care.
Apart from the above limitations, other medical expenses, including unpaid nursing home bills that do not run afoul of this policy, can be paid from income and deducted when determining the resident’s payment toward the cost of care.

Click here to review the DPW’s Operations Memorandum Medicaid OPS100303.