



Food and
Nutrition
Service

Park Office
Center

3101 Park
Center Drive
Alexandria
VA 22302

DATE: December 21, 2015

SUBJECT: Deductible Excess Medical Expenses November 23, 2015 Memo
Revision

TO: All Regional SNAP Directors
Supplemental Nutrition Assistance Program

On November 23, 2015 the Food and Nutrition Service (FNS) Supplemental Nutrition Assistance Program (SNAP) Program Development Division (PDD) issued a memo in response to multiple inquiries received regarding the SNAP excess medical expense deduction for elderly and disabled households. FNS is reissuing this memo to clarify the following sentence:

In the third paragraph of the memo, the sentence now reads:

*“For an expense to be deductible under this provision, it must be prescribed **or approved by a State-licensed or qualified practitioner**”* (change is bolded).

A revised version of the memo is enclosed. Please replace the memo issued on November 23, 2015 with this revised memo.

If you have any questions concerning this policy, contact Sasha Gersten-Paal at sasha.gersten-paal@fns.usda.gov.

Sincerely,

/s/ Lizbeth Silbermann

Lizbeth Silbermann
Director
Program Development Division

Enclosure

The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.



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SUBJECT: Deductible Excess Medical Expenses

TO: All Regional SNAP Directors
Supplemental Nutrition Assistance Program

The Food and Nutrition Service (FNS) has recently received multiple inquiries on the Supplemental Nutrition Assistance Program (SNAP) excess medical expense deduction for elderly and disabled households. In particular, State agencies have requested clarification on whether specific expenses can be included under the deduction for prescriptions at 7 CFR 273.9(d)(3)(iii) and for service animals at 273.9(d)(3)(vii). Over the years, FNS has addressed the deductibility of specific items under the excess medical expense deduction through informal policy clarifications, but has not provided extensive formal policy guidance. This memo provides formal policy guidance and a framework for determining which expenses should and should not be considered allowable.

Prescriptions

Section 3(c)(3) of the Food and Nutrition Act of 2008, as amended, (the Act) defines allowable medical expenses as, among other things, “prescription drugs when prescribed by a licensed practitioner authorized under State law and over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional.” The regulations implement this requirement at 7 CFR 273.9(d)(3)(iii). Allowable medical costs under this section include prescription drugs when prescribed by a licensed practitioner authorized under State law, over-the-counter medication when approved by a licensed practitioner or other qualified health professional, and the costs of medical supplies, sick-room equipment or other prescribed equipment. Note that in accordance with Federal law, final regulations implementing the 2014 Farm Bill, 80 FR 53240 (September 3, 2015), and longstanding SNAP policy, medical marijuana may not be deducted from household income as an allowable medical expense for SNAP.

When the medical deduction regulation was implemented as an emergency final rule in 1979 (44 FR 55160), FNS stressed the importance that the medical care must be performed by or drugs prescribed by a State-licensed practitioner or qualified health professional, as determined by State definitions or authorities. This reasoning remains the key to this deduction. For an expense to be deductible under this provision, it must be prescribed or approved by a State-licensed or qualified practitioner. That is, if a practitioner is State-licensed or qualified; he or she has the expertise to prescribe whatever is medically necessary to treat the patient, and any medication, medical supplies, or equipment prescribed by the practitioner are deductible for SNAP eligibility purposes. The State agency is not qualified to evaluate whether what is prescribed is appropriate for the individual’s medical condition. Instead, the

State agency must evaluate whether a specific item is prescribed by a State-licensed practitioner or qualified health professional as determined by State definitions or authorities.

Service Animals

Section 3(c)(6) of the Act also defines allowable medical expenses as costs for “dentures, hearing aids, and prosthetics (including the costs of securing and maintaining a seeing eye dog).” SNAP regulations at 7 CFR 273.9(d)(3)(vii) indicate that costs associated with a seeing eye or hearing dog may be considered as allowable medical deductions. In 1990, FNS issued an indexed policy memo to broaden the definition to include all service animals, not just seeing eye or hearing dogs. Therefore, costs associated with any animal specially trained to serve the needs of elderly or disabled program participants are allowable for purposes of the excess medical deduction.

An animal must be specially trained to assist the SNAP recipient in order for its associated maintenance costs (from veterinary bills to food and other expenses) to be allowable deductions. If the animal has not been specially trained, it is not a service animal and its expenses are not deductible. A pet or companion animal that a client already has when prescribed a service animal does not automatically become a service animal – the animal must have specialized training to assist the individual with the medical issue for which the animal is prescribed.

Specific types of training, credentials or certifications are not required, but the animal must be specially trained to perform a function that the elderly or disabled person cannot readily perform on their own. Again, we believe that the State agency is in the best position to determine whether an animal is specially trained and therefore a service animal.

Verification

It is important to emphasize that these medical expenses must be verified as required under 7 CFR 273.2(f)(1)(iv). Although the eligibility worker cannot question what a doctor deems to be necessary medical treatment, there must be checks and balances to ensure the expense is legitimate. Verification is an important step to do this. Eligibility workers have detailed case information before them and the contact needed with clients in order to request additional information or clarification when needed to verify medical expenses.

If you have any questions concerning this policy, please contact Sasha Gersten-Paal at sasha.gersten-paal@fns.usda.gov.

/s/ Lizbeth Silberman

Lizbeth Silberman
Director
Program Development Division