

<b>Regulatory Analysis Form</b>		<b>This space for use by IRRC</b> 07/20/20 11:54:00 RECEIVED IRRC
(1) Agency Department of Public Welfare Office of Income Maintenance – Bureau of Policy Division of Health Services		IRRC Number: 2296
(2) I.D. Number (Governor's Office Use)		
(3) Short Title  Modifications in MA Spend-down		
(4) PA Code Cite  55 Pa. Code Chapter 181	(5) Agency Contacts & Telephone Numbers  Primary Contact: Edward J. Zogby 787-4081  Secondary Contact: George L. Hoover 772-7809	
(6) Type of Rulemaking (check one)  <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120 Day Emergency Certification Attached?  <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and non-technical language.  This regulation eliminates NMP Spend-down. It also limits the time period for unpaid medical expenses which an applicant or recipient can use as a deduction in MNO Spend-down. In MNO Spend-down, the use of unpaid medical expenses as a deduction will be limited to the retroactive period. The retroactive period is defined as beginning no earlier than the first calendar day of the third month preceding the month of application.		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions.  42 U.S.C.A. §§ 1396a(a)(10)(A) and (C) and 1396a(a)(17); 42 CFR §§ 435.301, 435.601, 435.602 and 435.831; and Public Welfare Code §§ 201(2), 403(b), 441.1 and 442.1 (62 P.S. §§ 201(2), 403(b), 441.1 and 442.1).		

**Regulatory Analysis Form**

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

These regulations will preserve funds to assure continued benefits for the Federally-mandated eligibility groups.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Non-regulation would jeopardize the Department's ability to provide critical health care benefits to the Federally-mandated eligibility groups under the MA Program.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

These regulations will preserve funds for the Federally-mandated eligibility groups.

### Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

Individuals adversely affected are those in the NMP Spend-down category or who are using certain unpaid medical expenses to reduce their income in an MA eligibility determination. It is estimated that with the elimination of NMP Spend-down, 7,196 individuals will lose NMP benefits but some may be eligible for MNO Spend-down. Approximately 14,802 individuals receiving Medicaid through MNO Spend-down would lose eligibility under these provisions.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

None.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

Preliminary drafts of the proposed regulations were shared with the Income Maintenance Advisory Committee (August 2002) and the Medical Assistance Advisory Committee (July 2002).

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Not applicable.

### Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Not applicable.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The Department estimates the Fiscal Year 2002-2003 savings to be \$18.923 million (\$9.272 million in State funds). Of this amount, the Department estimates the Fiscal Year 2002-2003 savings to be \$9.912 million (\$5.011 million in State funds) for the change relating to limiting unpaid medical expenses and estimates Fiscal Year 2002-2003 savings to be \$9.011 million (\$4.261 million in State funds) for the component relating to elimination of NMP Spend-down.

*Shankley 9/12/02*

**Regulatory Analysis Form**

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

(Dollar Amounts in Thousands)

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>	(\$9,272)	(\$31,356)	(\$35,054)	(\$39,167)	(\$43,784)	(\$48,969)
<b>Total Savings</b>	(\$9,272)	(\$31,356)	(\$35,054)	(\$39,167)	(\$43,784)	(\$48,969)
<b>COSTS:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Costs</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>	\$0	\$0	\$0	\$0	\$0	\$0

(20a) Explain how the cost estimates listed above were derived.

These savings estimates were based on data which indicates that there will be approximately 14,802 individuals, or 10% of current Medical Assistance users who use both paid and unpaid medical expenses as deductions to determine both retroactive and continuing eligibility, who will be excluded from Medical Assistance by this change. This change will be effective upon publication in the Pennsylvania Bulletin as final rulemaking. The above figures reflect a four-month cost impact in fee-for-service appropriations and a three-month effect in MA-Capitation.

These savings estimates were based on data which indicates that there will be approximately 7,196 individuals who will lose eligibility by revising Pennsylvania's narrower definition of Spend-Down for Medicaid applicants. Currently Pennsylvania has a unique provision that allows a person whose net income exceeds eligibility income limits to use certain paid or unpaid medical expenses to "spend down" the excess income to become eligible for the most complete healthcare benefit package in the Medical Assistance Program that is intended for the lowest income persons. Under the proposed change, Pennsylvania would no longer allow this special "spend down" provision. This change will be effective upon publication in the Pennsylvania Bulletin as final rulemaking. The above figures reflect a four-month cost impact in fee-for-service appropriations and a three-month effect in MA-Capitation.

	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08
MA-Inpatient	(\$2,218)	(\$6,795)	(\$7,277)	(\$7,783)	(\$8,325)	(\$8,905)
MA-Outpatient	(\$4,766)	(\$14,825)	(\$16,844)	(\$19,116)	(\$21,695)	(\$24,622)
MA-Capitation	(\$2,288)	(\$9,736)	(\$10,933)	(\$12,268)	(\$13,764)	(\$15,442)

**Regulatory Analysis Form**

(20b) Provide the past three year expenditure history for programs affected by the regulation.  
 (Dollar Amounts in Thousands)

Program	FY -3	FY -2	FY -1	Current FY
Medicaid-Inpatient	\$392,528	\$418,707	\$417,512	\$396,804
Medicaid-Outpatient	\$622,669	\$668,586	\$705,750	\$649,055
Medicaid-Capitation	\$1,384,763	\$1,487,944	\$1,711,084	\$2,037,376

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Implementing these regulations preserves funds necessary to ensure the current level of benefits for recipients in the Federally-mandated eligibility groups of the MA Program.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

None.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

None.

**Regulatory Analysis Form**

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

These changes will bring the MA Program more in line with other states. The proposed regulation will not put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No.

### Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports, which will be required as a result of implementation, if available.

Yes, the change will reduce the amount of medical expense paperwork the DPW caseworker will handle, analyze and record.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

None.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

These regulations are proposed to be effective upon publication in the Pennsylvania Bulletin as final rulemaking.

(31) Provide the schedule for continual review of the regulation.

These regulations will be reviewed through the Department's Quality Control and Corrective Action review process.



CDL-1

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

SEP 25 11 54 AM '02

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# 2296

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved  
as to form and legality.  
Attorney General

By: [Signature]  
(Deputy Attorney General)

SEP 24 2002

Date of Approval

π Check if applicable  
Copy not approved.  
Objections attached.

Copy below is hereby certified to be a true and correct  
copy of a document issued, prescribed or promulgated  
by:

Department of Public Welfare  
(Agency)

LEGAL COUNSEL: CSellman

DOCUMENT/FISCAL NOTE NO. 14-477  
(DPW-OIM-09-02-03)

DATE OF ADOPTION: \_\_\_\_\_

BY: [Signature]

TITLE: Secretary of Public Welfare  
(Executive Officer, Chairman or Secretary)

Copy below is hereby approved as to  
form and legality. Executive or  
Independent Agencies.

BY: [Signature]

SEP 19 2002

Date of Approval

(Deputy General Counsel)  
(~~Chief Counsel, Independent Agency~~)  
(Strike inapplicable title)

π Check if applicable. No Attorney  
General approval or objection  
within 30 days after submission.

NOTICE OF PROPOSED RULEMAKING  
DEPARTMENT OF PUBLIC WELFARE  
OFFICE OF INCOME MAINTENANCE  
BUREAU OF POLICY  
[55 PA CODE CHAPTER 181]  
INCOME PROVISIONS FOR CATEGORICALLY NEEDY NMP-MA AND MNO-MA

**STATUTORY AUTHORITY**

The Department of Public Welfare (Department) proposes to amend the regulations set forth in Annex A under the authority of §§ 201(2), 403(b), 441.1 and 442.1 of the Public Welfare Code, Act of June 13, 1967 (P.L. 31, No. 21) (62 P.S. §§ 201(2), 403(b), 441.1 and 442.1); 42 U.S.C.A. §§ 1396a(a)(10)(A) and (C) and 1396a(a)(17); and Federal regulations for optional Medical Assistance (MA) coverage and financial requirements found in 42 CFR §§ 435.301, 435.601, 435.602 and 435.831.

**PURPOSE**

The purpose of this proposed rulemaking is to eliminate Non-Money Payment (NMP) Spend-down and to limit the use of unpaid medical expenses of an applicant or recipient as a deduction for MA in determining Medically Needy Only (MNO) Spend-down eligibility. This proposed rulemaking provides that a medical expense may not be deducted if it was incurred before the first calendar day of the third month preceding the month of application.

## **BACKGROUND**

The Department is committed to administering an efficient, effective MA program that ensures access to quality health care for the Commonwealth's most vulnerable citizens. Notwithstanding this commitment, the Department must make changes to the MA Program to address the increasing fiscal demands.

Over the past year, Pennsylvania, as well as many other states, has experienced a significant increase in costs under the MA Program. No immediate relief is in sight. This fiscal pressure has required states to examine closely all expenditures and evaluate and prioritize what programs can continue to be fully funded.

The Department of Public Welfare has taken steps to contain costs in past years, through the implementation of managed care and the institution of management controls to avoid payments for services which are not medically necessary. Despite these changes, expenses in the MA Program continue to grow.

MA is a means-tested Federal-State funded program designed to provide health care benefits to individuals with limited income and resources. While the Federal government provides a baseline of what eligibility groups must be covered and what services must be provided in order for states to receive Federal Financial Participation

(FFP), states may choose to expand eligibility to include additional groups as well as provide additional services. Historically, Pennsylvania has adopted most of the eligibility and service options available under Federal law and exercised various options to use less restrictive methodologies to determine eligibility. As a result, Pennsylvania has one of the most generous MA Programs in the country.

In reviewing program areas to help reduce the significant growth in expenditures, the Department has compared its current MA Program requirements with the requirements the Federal government mandates as well as what other states provide. As a result of this comparison, options were identified that would bring Pennsylvania's program more in line with the Federal baseline as well as closer to what other states provide.

Despite the increasing cost, the Department, unlike its counterparts in other states, has not limited benefits. Instead, Pennsylvania's approach has been to try to protect benefits for those in greatest financial need while looking at those areas of the program where individuals have some existing income or resources to pay for at least part of their care. The Department recognizes that taking steps to reduce benefits causes concern. The basis of this concern is that the proposed changes to eliminate NMP spend-down and limit the use of an unpaid medical expense will result in approximately 7,196 individuals losing MA under the current NMP spend-down

provisions and approximately 14,802 individuals losing MA under the current MNO provisions. However, taking less drastic action at this point to minimize growth now will hopefully mitigate the need to limit benefits to the Federally-mandated eligibility groups.

The Department's NMP Spend-down provisions are not Federally mandated. Eliminating these provisions will allow the Department to continue to provide services to the population that must be served to assure FFP. Additionally, by limiting the retroactive period from which MNO clients can claim an income deduction for past medical expenses, the Department can further cut costs to assure continued benefits to the Federally-mandated eligibility groups.

Under the current regulations, an individual not eligible for MA due to having net income in excess of the NMP or MNO income limit can qualify for MA benefits by spending down the excess income on medical expenses. Unpaid medical expenses can be deducted from an applicant's or recipient's income as long as those expenses meet certain criteria. The unpaid medical expense must: 1) not be subject to payment by a third party; 2) not be paid by MA, once MA is authorized; 3) be the legal obligation of a member of the applicant or recipient group; 4) have a verified amount and date of service; and 5) not have been used in a prior MA eligibility determination.

Current regulations do not limit when the medical expense being used in the eligibility determination was incurred. As a result, the medical expense could have been incurred several years ago. This proposed rulemaking will limit the time period of an unpaid medical expense to those expenses incurred on or after the first calendar day of the third month preceding the month of application.

### **NEED FOR PROPOSED RULEMAKING**

This proposed rulemaking is necessary to revise the MA eligibility requirements for applicants and recipients requesting MA in order to address the significant growth in costs of the MA Program.

### **SUMMARY OF REQUIREMENTS**

1. Sections 181.11(d), 181.13, 181.21(b), 181.21(c)

These provisions propose deletion of references and cross-references to NMP Spend-down and deletion of eligibility requirements for that program.

2. Sections 181.12(c)(2) and 181.14(d)(1)(v)

These provisions propose amendments to add language that indicates that unpaid medical expenses cannot be used as a deduction if the date of service is earlier than the first calendar day of the third month preceding the month of application and to remove language that permits expenses from other time periods to be used as a deduction.

**AFFECTED PERSONS AND ORGANIZATIONS**

This proposed rulemaking applies to applicants and recipients who apply for or receive MA benefits under NMP or MNO Spend-down. The individuals affected by the elimination of NMP Spend-down will automatically be reviewed for MNO MA or Medical Assistance for Workers with Disabilities (MAWD) benefits before termination. On January 12, 2002, the Department implemented MAWD by public notice in the Pennsylvania Bulletin. (32 Pa.B. 289.) A separate proposed rulemaking will be published to codify MAWD. Additionally, these individuals may be eligible for the Insurance Department's Children's Health Insurance Program (CHIP) or adult Basic Program or the Department of Aging's Pharmaceutical Assistance Contract for the Elderly (PACE) or PACE Needs Enhancement Tier (PACENET) if they meet the eligibility requirements of the specific program.

The changes to MNO Spend-down will affect individuals who have unpaid medical expenses incurred before the first calendar day of the third month preceding the month of application and their eligibility was a result of using these unpaid medical expenses as a deduction when determining MA eligibility.

### **ACCOMPLISHMENTS/BENEFITS**

This proposed rulemaking will continue to allow the Department to provide MA benefits to the Commonwealth's Federally-mandated eligibility groups, while providing sound fiscal management of the Commonwealth's limited resources.

### **FISCAL IMPACT**

#### **COMMONWEALTH:**

The Department has estimated savings for the MA Program by eliminating the Spend-down eligibility group from NMP and the changes to the MNO Spend-down process to be \$18.923 million in Fiscal Year 2002-2003 with the Commonwealth's savings to be \$9.272 million. The Commonwealth's savings will increase to approximately \$43.784 million per year by Fiscal Year 2006-2007.



The Department's MAWD program may experience an increase in enrollment and the CHIP and adultBasic Programs, under the Department of Insurance, and the PACE/PACENET program, under the Department of Aging, may experience an increase in applications or enrollment.

**PUBLIC SECTOR:**

There will be no impact on municipal or county governments.

**PRIVATE SECTOR:**

There is potential for health care providers to have an increase in uncompensated care due to applicant or recipient ineligibility.

**PAPERWORK REQUIREMENTS**

There are no additional forms or reports needed. There will be a reduction in the amount of medical expense paperwork the caseworker will handle, analyze and record.

**EFFECTIVE DATE**

These regulations will be effective upon publication in the Pennsylvania Bulletin as final rulemaking.

**SUNSET DATE**

There is no sunset date. The Department monitors regulations through its Quality Control and Corrective Action agencies.

**PUBLIC COMMENT PERIOD**

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to the Department of Public Welfare, Edward J. Zogby, Director, Bureau of Policy, Room 431, Health and Welfare Building, Harrisburg, Pennsylvania 17120, (717) 787-4081, within 30 days after the publication in the Pennsylvania Bulletin. Comments received within the 30 calendar days will be reviewed and considered in the preparation of the final-form regulations. Comments received after the 30-day comment period will be considered for subsequent revisions of these regulations.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (Voice Users).

**REGULATORY REVIEW ACT**

Under § 5(a) of the Regulatory Review Act, the Act of June 25, 1997 (P.L. 252, No. 24) (71 P.S. §§ 745.1 - 745.15), the Department submitted a copy of this proposed regulation on SEP 25 2002 to the Independent Regulatory Review Commission and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In addition to submitting the regulation, the Department has provided the Commission and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under § 5(g) of the Regulatory Review Act, if the Commission has any objections to any portion of the proposed regulation, it will notify the Department within ten days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Act specifies detailed procedures for review, prior to final publication of the regulation, of objections raised by the Department, the General Assembly and the Governor.

cc: Legislative Reference Bureau

ANNEX

TITLE 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

Subpart D. DETERMINATION OF NEED AND AMOUNT OF ASSISTANCE

CHAPTER 181. INCOME PROVISIONS FOR CATEGORICALLY NEEDY NMP-MA  
AND MNO-MA

Subchapter A. GENERAL PROVISIONS FOR MA  
INCOME COMMON TO ALL CATEGORIES OF MA

\* \* \* \* \*

CONTINUING AND RETROACTIVE ELIGIBILITY PROVISIONS

FOR ALL CATEGORIES OF MA

§ 181.11. Continuing eligibility.

\* \* \* \* \*

(d) For persons who do not meet the requirements of subsection (b) or (c), eligibility for continuing MA benefits exists if the applicant/recipient meets the eligibility requirements under [§ 181.13 or] § 181.14 (relating to [eligibility under NMP-MA spend-down; and] eligibility under MNO-MA spend-down).

§ 181.12. Retroactive eligibility.

\* \* \* \* \*

(c) For MNO-MA categories, income eligibility for retroactive MA benefits exists if one of the following applies:

\* \* \* \* \*

(2) The applicant's/recipient's countable net income in the combined retroactive/prospective period, less medical expenses is equal to, or less than, the appropriate MNO-MA 6-month period income limits in Appendix F. Unpaid medical expenses, incurred on or after the first calendar day of the third month preceding the month of application, [that are not subject to payment by a third-party, which remain the legal obligation of the applicant/recipient, and are not to be paid for under the MA Program once MA is authorized] and paid medical expenses, are deducted from the countable net income in the combined retroactive/prospective period as provided under § 181.14(e)(1)—(6) (relating to eligibility under MNO-MA spend-down)[.] if the unpaid medical expenses: [This includes medical expenses incurred before the retroactive period.]

(i) are not subject to payment by a third party;

(ii) remain the legal obligation of the applicant/recipient;

and

(iii) are not to be paid for under the MA Program once MA is authorized.

§ 181.13. [Eligibility under NMP-MA Spend-down.] (Reserved.)

(a) Eligibility under NMP-MA spend-down is available to an applicant/recipient except for an applicant/recipient receiving skilled nursing care or intermediate care.

(b) The applicant/recipient shall meet the NMP-MA eligibility criteria, including the income criteria, to qualify for NMP-MA spend-down.

(c) The period of NMP-MA spend-down eligibility begins the day of the calendar month in which eligibility for NMP-MA spend-down is established and continues through the last day of that calendar month.

(d) Income eligibility for NMP-MA spend-down exists when the applicant's/recipient's:

(1) Countable net income less \$10 is equal to, or less than, the appropriate NMP-MA income limits in Appendix A for the aged, blind and disabled categories not receiving skilled nursing care or intermediate care.

(2) Countable net income less \$10 and medical expenses in subsection (e) is equal to, or less than, the appropriate NMP-MA income limits in Appendix A for the aged, blind and disabled categories not receiving skilled nursing care or intermediate care.

(3) Countable net income less \$10 is equal to, or less than, the appropriate NMP-MA income limits in Appendix C for the AFDC categories and the GA categories not receiving skilled nursing care or intermediate care.

(4) Countable net income less \$10 and medical expenses in subsection (f) is equal to, or less than, the appropriate NMP-MA income limits in Appendix C for the AFDC categories and the GA categories not receiving skilled nursing care or intermediate care.

(e) Deductible medical expenses include:

(1) Unpaid medical expenses, including those reasonably expected to be incurred, which meet the requirements in this paragraph. The unpaid medical expenses:

- (i) Are not subject to payment by a third-party.
- (ii) Are not to be paid for under the NMP-MA Program once NMP-MA is authorized.
- (iii) Are the legal obligation of the applicant/recipient.
- (iv) Have not previously been used as a deduction in the determination of eligibility for a prior authorization of MA.



(2) Paid medical expenses which meet the requirements in this paragraph. The paid medical expenses:

(i) Are paid in the calendar month for which spend-down is requested.

(ii) Have not previously been used as a deduction in the determination of eligibility for a prior authorization of MA.

(f) Medical expenses meeting the requirements in subsection (e) are deducted in the calendar month for which spend-down is requested in the following order:

(1) Medicare and other health insurance premiums including enrollment fees, deductibles or coinsurance charges incurred by the applicant/recipient regardless of whether they are paid or unpaid.

(2) Copayments or deductibles required by the Department. An applicant/recipient participating in the Copayment Program required by the Department is permitted a medical expense deduction for copayment expenses, subject to the copayment limit established by the Department.

(3) Expenses incurred—paid and unpaid—by the applicant/recipient for necessary medical and remedial services recognized under State statutes or regulations but not included in the NMP-MA Program.

(4) Expenses incurred—paid and unpaid—by the applicant/recipient for necessary medical and remedial services that are included in the NMP-MA Program.

(g) A monthly review of eligibility for NMP-MA spend-down is required except when the countable net income less \$10 is equal to, or less than, the appropriate income limit. A monthly review does not require a reapplication unless:

(1) The monthly review falls in the month that a complete reapplication of eligibility for NMP-MA is due.

(2) Three consecutive months have elapsed since the applicant/recipient requested a determination of eligibility for NMP-MA spend-down.]

§ 181.14 Eligibility under MNO-MA spend-down.

\* \* \* \* \*

(d) Deductible medical expenses include:

(1) Unpaid medical expenses, including those reasonably expected to be incurred, which meet the requirements in this paragraph. The unpaid medical expenses:

\* \* \* \* \*

(v) Have been incurred on or after the first calendar day of the third month preceding the month of application.

\* \* \* \* \*

TREATMENT OF INCOME COMMON TO  
ALL CATEGORIES OF MA

§ 181.21. Treatment of actual and anticipated income and expenses.

\* \* \* \* \*

(b) In determining continuing eligibility for MA, [except NMP-MA spend-down] either the anticipated or actual income, or both, and work, personal and dependent care expenses to be received beginning with the first day of the calendar month containing the effective date of the application or reapplication are used, or the actual income and work, personal and dependent care expenses received 30 days before the calendar month of application or reapplication for MA may be projected to determine anticipated income and work, personal and dependent care expenses.

[(c) A combination of actual and anticipated income and expenses are considered to determine NMP-MA spend-down eligibility for MA. Actual income and expenses are used from the beginning of the calendar month to the day of the calendar month in which eligibility for NMP-MA spend-down is established. Anticipated income and work, personal and dependent care expenses are used for the remainder of the calendar month.]

\* \* \* \* \*

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO  
REGULATORY REVIEW ACT**

**PLEASE RETURN TO:  
Independent Regulatory  
Review Commission  
14<sup>th</sup> Floor, Harristown II**

**I.D. NUMBER:** 14-477  
**SUBJECT:** Income Provisions for Categorically Needy NMP-MA and MNO-MA  
**AGENCY:** DEPARTMENT OF PUBLIC WELFARE

**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a.  With Revisions
  - b.  Without Revisions

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SEP 25 11 01 AM  
INDEPENDENT REGULATORY REVIEW COMMISSION

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
9/25/02	<i>A. Racker</i>	HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES
9/25/02	<i>K. Riley</i>	
9/25/02	<i>Kristi Kremer</i>	SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE
9/25/02	<i>L. Cahill</i>	
9/25/02	<i>E. Dagan</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
	<i>Robert C. Sullivan</i>	LEGISLATIVE REFERENCE BUREAU