

New York MEDICAID CO-PAYMENT POLICY

This fact sheet has the basics about Medicaid co-payments in NYS.

1. **Table 1 - WHICH MEDICAID RECIPIENTS ARE EXEMPT FROM PAYING CO-PAYMENTS?**
2. **Table 2 - Which Services have MEDICAID CO-PAYMENTS & Which Services are EXEMPT?**
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TABLE 1 – WHICH MEDICAID RECIPIENTS ARE EXEMPT FROM PAYING CO-PAYMENTS ?

CATEGORIES OF PEOPLE EXEMPT FROM MEDICAID CO-PAYS
People under 21 years old
Pregnant women are exempt during the pregnancy and for <i>60 days</i> postpartum
Individuals with income under 100% Federal Poverty Level
Comprehensive Medicaid Case Management (CMCM) or Service Coordination Program enrollee
Nursing Home residents
Residents of Intermediate Care Facility for Developmentally Disabled (ICF/DD)
Residents of OMH (Office of Mental Health) certified community residences (CR), residential care centers for adults (RCCA), and family care homes (FC), and adult homes¹
Recipients enrolled in OMH, OMRDD or Traumatic Brain Injury (TBI) Home and Community Based Services (HCBS) Waiver.
Managed Long Term Care plan enrollee ²
PARTLY EXEMPT: Medicaid Managed care members must pay prescription drug copays but no other copays.
American Indians and Alaska Natives who have ever received a service from the Indian Health Service, tribal health programs or under contract health services referral.

TABLE 2: Which Services have MEDICAID CO-PAYMENTS & Which Services are EXEMPT

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Service or Item	AMOUNT	DETAILS ABOUT CO-PAY	NO CO-PAY FOR THESE EXEMPT SERVICES
Clinic & Outpatient Hospital Visits	\$3.00 (\$0 in managed care plan)	Outpatient clinics in hospitals or freestanding clinics such as Community Health Centers EXCEPTION: NO COPAY for Telehealth visits⁴ NO copay for managed care members	<ul style="list-style-type: none"> • Mental Health Clinics • Family Planning/Prenatal Services • Alcohol, Substance Abuse, Methadone Clinic • Tuberculosis Directly Observed Therapy • Developmental Disability Clinics • Clinic visits which include vaccine administration recommended by Advisory Committee on Immunization Practices (ACIP)
Private Doctor's or Dentist's office	No Co-pay	No Co-pay	NO CO-PAY FOR: services provided in a private doctor or dentist's office
Prescriptions and Over-the-counter. NOTE: Members of managed care plans must pay these copays unless they are in another "exempt" category.			
Brand Name Prescription	\$2.50 (unclear if still \$3.00)	One co-payment charge for <i>each</i> new prescription or fiscal order and for each refill (90-day prescriptions can save money – 1 copay!) ⁵ No copay for 30-day fill within 30 days of emergency 5-day fill for substance use disorders or 7-day fill for acute pain – just one copay for the initial 5-day fill. ⁶	NO CO-PAY FOR: <ul style="list-style-type: none"> • Drugs to treat mental illness (psychotropic) • Birth Control/ Family planning • Tuberculosis Drugs
"Preferred" brand-name prescription drugs or when costs less than generic ⁷	\$1.00	Brand name drug "preferred" when cheaper to NYS than generic, after rebates. For a list of "preferred" brand-name prescription drugs & more information regarding the Preferred Drug Program go to https://newyork.fhsc.com or call (877) 309-9493	
Generic Drug Prescription	\$1.00		
Over-the-counter Rx	\$0.50		
Other services – NOTE: Managed care members are NOT asked to pay the following copayments.			
Medical Supplies	\$1.00 (\$0 in	Syringes, bandages, gloves, sterile irrigation solutions, incontinent pads	NO CO-PAY FOR: for birth control supplies, condoms,

	managed care plan)	(diapers), ostomy bags, heating pads, hearing aid batteries, nutritional supplements, etc. NO COPAY for managed care members --continued -	diaphragms, contraceptive creams
Lab Tests	\$.50 (\$0 in managed care plan)	Several co-pays may be charged for one blood test because <i>each</i> test procedure has a co-pay. COVID-19 test not exempt from copays. ⁸ NO copays for Screening tests recommended by US Preventive Service Task Force (USPSTF A or B medical services can be found on the USPSTF "A & B Recommendations" web page	NO CO-PAY FOR: pregnancy or prenatal tests NO COPAY for mainstream managed care members NO COPAY for certain screening tests 
X-Rays	\$1.00 (\$0 in managed care plan)	X-rays in hospital clinics, free-standing clinics, and community health clinics (BUT no copay if recommended by US Preventive Services Task Force. See fn. 7	NO CO-PAY FOR: x-rays in private doctors or dentists offices or in emergencies
Overnight Hospital Stays	\$25.00 on the last day (\$0 in managed care plan)	425 co-payment for each hospitalization of any length involving at least one overnight stay NO COPAY for managed care members.	NO CO-PAY FOR: hospital stays for childbirth, miscarriage, family planning services, prenatal care or an emergency condition
Emergency Room	\$3.00 (\$0 in managed care plan)	Co-pay is <i>only</i> for non-urgent or non-emergency services NO COPAY for managed care members.	NO CO-PAY FOR: Urgent or emergency services received in an emergency room
US Preventive Services Task Force (USPSTF) A and B medical services.	No Co-pay⁹ (2022)	Listing of all the recommendations with either USPSTF A or B medical services can be found on the USPSTF "A & B Recommendations" web page .	NO CO-PAY for: certain clinic, ordered ambulatory, and laboratory claims if they are on the preventive task force list.

3. Pharmacists and other Medical Providers May Not Deny a Medical Service to a Recipient who is Unable to Pay the Co-payment.

This requirement is in both federal and state law.¹⁰ The State Dept. of Health has emphasized the right of consumers to receive a Medicaid service even if they cannot pay. A provider has the right to ask you for the co-payment at each visit and bill you for any unpaid co-payments.

“HEALTH CARE PROVIDERS HAVE AN OBLIGATION TO PROVIDE SERVICES REGARDLESS OF A RECIPIENT'S ABILITY TO PAY CO-PAYMENTS. The legislation enacting co-payments provides that a provider may not deny services to an

eligible recipient based on a recipient's (or his/her agent's) statement that he/she cannot afford the co-payment. You may not refuse to provide services to otherwise eligible recipients who cannot afford to pay the co-payment. *To refuse to provide services is an unacceptable practice.*"

In 2017, the State Dept. of Health sent this "**Reminder: Federal Mandate Regarding Copay Nonpayment:**"¹¹

"The NYS Medicaid Pharmacy Program has been notified some pharmacies are refusing to dispense medications to patients for their inability to pay the copayment. Social Security Act §1916 specifies that no Medicaid enrolled provider may deny care or services to an individual eligible for such care or services on account of such individual's inability to pay a deduction, cost sharing, or similar charge. As noted in the [September 2011 Special Edition Medicaid Update cover-story](#) and the [March 2012 Medicaid Update article titled "Clarifying Information for Medicaid Fee-for-Service \(FFS\) and Managed Care Pharmacy Providers"](#), confirms this Federal law applies to all Medicaid providers, both fee-for-service and managed care. Providers may attempt to collect outstanding copayments through methods such as requesting the co-payment each time the member is provided services or goods, sending bills or any other legal means.

This message reinforced the August 2005 Medicaid Update, which says:

"Medicaid recipients who cannot afford to pay and tell the pharmacist that they are unable to pay must be provided with the ordered pharmacy items. The pharmacy cannot refuse to provide pharmacy items because of a recipient's inability to pay. (Recipients still owe the unpaid co-pay amounts to the pharmacy and may be asked/billed.)"

- The pharmacist or other provider may:
 - request the co-payment each time a recipient needs services or goods;
 - ask a recipient for outstanding co-payments the next time he/she comes in;
 - send the recipient bills; or,
 - use other legal means to collect the co-pay due.
- The provider must not reduce the amount charged on a Medicaid claim by the co-payment that is collected from a Medicaid recipient. Each claim that requires a co-payment will have the co-payment *automatically deducted* from the final payment when the claim is approved for payment.

4. THE ANNUAL CAP of \$200 on COPAYMENTS

- ANNUAL \$ 200 CAP -- **There is a \$200 maximum per recipient for all co-payments incurred per year – and a maximum of up to \$50 in a co-pay per quarter.** This is tracked in the Electronic Medicaid Eligibility Verification System (EMEVS), and depends on providers to enter the copayment when eligibility is verified and a service authorization, if appropriate, is obtained on the date of service. Providers must enter this regardless of whether recipients pay or do not pay the co-payment. Otherwise the payment to providers will be deducted

from their claims even if the recipient would have met the cap had all copays been entered.

- **The co-payment year is from April 1st to March 31st.**
- If you reach your maximum of \$50 in a quarter, and the \$200 maximum for the year, a letter will be sent to you exempting you from paying any additional Medicaid co-payments for the remainder of that quarter or for the year. The provider will see that no co-payment is due from the recipient.

5. COPAYMENTS AND THE MEDICAID SPEND-DOWN -- Co-payments paid **or incurred** can be used toward satisfying the spenddown or surplus in the following month. Therefore, DOH guidance tells providers to provide itemized bills or receipts for co-payments to recipients when requested.

6. NYS MEDICAID CONSUMER HELPLINE 1-800-541-2831 M – F 8:30 am - 5:00 pm

PROVIDERS MedNY Call Center: 1-800-343-9000

7. Background - - Law, Regulations and Guidance on Copayments

- Medicaid co-payments have been in effect in New York since November 1993.
- State Statute: Soc. Serv. Law § 367-a, subd. 6; State regulations 18 NYCRR 360-7.12
- State guidance includes Dept. of Health Medicaid Updates for Jan. 2002,¹² July 2003, and [Feb. 2005](#) and [August 2005](#), and [July 2008](#), [Sept. 2017](#), [March 2020](#), [Sept. 2022](#), Sept. 2024; GIS 05/MA-006, Medicaid Recipient Co-Payment Program Changes.¹³
- FAQ for consumers – scroll to “Will I have to pay co-payments?” https://www.health.ny.gov/health_care/medicaid/members/faqs_benefits.htm
- Court case: *Sweeney vs. Bane*, 996 F.2d 1384 (2d Circ. 1993)(affirming denial of Preliminary Injunction based on finding that New York’s procedures were sufficient for complying with the federal Medicaid law that prohibited medical providers from denying medical services to Medicaid recipients based on their inability to pay the copayment). See endnote 12 for language of federal law.
- Federal copayment law - Until now, 42 U.S.C. § 1396o gave states the *option* to require copayments with certain limits, including the requirement that recipients could not be denied services if they were unable to pay. See Endnote 12.

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¹ Per DOH Medicaid Update July 2003 Vol.18, No.7
<http://www.health.state.ny.us/nysdoh/manicare/omm/2003/jul2003.htm#copay>

³ N.Y. Dep't of Health, PHARMACY MANUAL: POLICY GUIDELINES 30 (Sept. 6, 2011), [available at https://www.emedny.org/ProviderManuals/Pharmacy/PDFS/Pharmacy_Policy_Guidelines.pdf](https://www.emedny.org/ProviderManuals/Pharmacy/PDFS/Pharmacy_Policy_Guidelines.pdf)

⁴ NYS Dept. of Health Medicaid Update March 2020 COVID-19 Special Edition Volume 36 - Number 4 https://www.health.ny.gov/health_care/medicaid/program/update/2020/2020-03-13_covid-19.htm

⁵ NYS Medicaid Update – Sept. 2024 https://www.health.ny.gov/health_care/medicaid/program/update/2024/no10_2024-09.htm#90day

⁶ NYS Medicaid Update – June 2017 Volume 33 - Number 6, available at https://www.health.ny.gov/health_care/medicaid/program/update/2017/jun17_mu.pdf

⁷ Per DOH Medicaid Update July 2008 Vol. 24, No. 8 http://www.nyhealth.gov/health_care/medicaid/program/update/2008/2008-07.htm#cop

⁸ NYS Medicaid Update - September 2024 Updates to NYS Medicaid Coverage of Coronavirus Disease Services Special Edition Volume 40 - Number 9 https://www.health.ny.gov/health_care/medicaid/program/update/2024/no09_2024-09_speced.htm (because Public Health Emergency ended)

⁹ NYS Medicaid Update - September 2022 Volume 38 - Number 10, at https://www.health.ny.gov/health_care/medicaid/program/update/2022/no10_2022-09.htm#modifier33

¹⁰ Federal law is 42 U.S.C. § 1396o, subd. (e), which states: (e) Prohibition of denial of services on basis of individual's inability to pay certain charges --
The State plan shall require that no provider participating under the State plan may deny care or services to an individual eligible for such care or services under the plan on account of such individual's inability to pay a deduction, cost sharing, or similar charge. The requirements of this subsection shall not extinguish the liability of the individual to whom the care or services were furnished for payment of the deduction, cost sharing, or similar charge.

¹¹ NYS Medicaid Update - September 2017 Volume 33 Number 9 had this reminder: Reminder: Federal Mandate Regarding Copay Nonpayment, available at https://www.health.ny.gov/health_care/medicaid/program/update/2017/2017-09.htm#copay."

¹² <http://www.health.state.ny.us/nysdoh/manicare/omm/2002/jan2002.htm#copayment>

¹³ <http://www.health.state.ny.us/nysdoh/manicare/omm/2005/aug2005.htm#copay>; *GIS 05 MA/026: Medicaid Recipient Co-Payment Program Changes GIS 05 MA/026: Medicaid Recipient Co-Payment Program Changes* <http://www.wnyc.net/pb/docs/05ma026.pdf>