

Children’s Long-Term Support (CLTS) and Children’s Mental Health Supportive Services (CMHSS) Parental Fee Guidelines

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Wisconsin Department of Health and Family Services Overview of Parental Fee for Children's Long-Term Support Services

2003 Act 33 (the 2003-2005 biennial budget) directed the Department of Health and Family Services (DHFS) to implement a parental fee for children's long-term support services. This will be a State of Wisconsin fee, separate from the fee system outlined in the 1915(c) Children's Long-Term Support (CLTS) Home and Community-Bases Services Waiver application, Appendix C, relating to a child's financial eligibility for CLTS Waiver Services.

Federal Medicaid rules permit states to impose fees on Medicaid clients for a service that is Medicaid funded. However, such a fee is permissible only if the state imposes the same fee for the same service provided through other government programs in the state. In this case, Wisconsin can establish a fee for services under the children's waiver, but it must assess the fee for children's long-term care services provided through other Medicaid (MA) Waivers (including the Community Integration Placement (CIP) Waiver), the Community Options Program, the Family Support Program, and other long-term supports. Medicaid Fee-for-Service benefits will not be affected by the fee.

The fee schedule will assess a fee for families at or above 330 percent of poverty, beginning at one percent of the service costs and increasing to 41% of service costs at incomes of about 2000 percent of poverty. County support and service coordination and administrative costs would be excluded for purposes of calculating the fee. The schedule imposes lower cost share requirements than the Uniform Fee Schedule.

The fee will be collected by Wisconsin counties, and the implementation process will begin July 1, 2005. The Children's Services Section will provide a notification letter to be sent to families of the impending fee. Counties should inform their Regional CSS of their plan for reasonable and timely compliance with parental fee collection.

Fee schedule particulars:

- The parental fee will not be retroactive.
- Counties will be provided auto-fill worksheets to automatically calculate parental fee.
- Parental adjusted gross income from previous calendar year taxes will be used as income determinant.
- A parent may request a fee recalculation if experiencing a dramatic change in income.
- Parents may either deduct a disability allowance of either the standard \$3,300 from their adjusted gross income or may deduct their actual allowable medical deduction reported on previous calendar year taxes.
- Once the parental fee has been calculated, parents will have 30 days before the fee will apply (*starts our fee on January 1, 2006*).

CLTS and CMHSS Parental Fee Overview

Who is affected by the CLTS and CMHSS Parental Fee?

Children participating in Children's Long-Term Support Programs, including the Community Options Programs, the Family Support Program and/or Medicaid Home and Community-Based Services (HCBS) Waivers (CIP 1A, CIP 1B, BIW, COP-W, CLTS Waivers). In La Crosse County this also includes certain Children's Mental Health Supportive Services (CMHSS).

What is the age-limit for a child to have a CLTS or CMHSS Parental Fee?

Birth to 18. This is true even though a child may be on a CLTS or CMHSS program after the age of 18. Thus, upon a child's 18th birthday, the CLTS or CMHSS Parental Fee would no longer apply.

When should the CLTS or CMHSS Parental Fee begin for a family?

The CLTS or CMHSS Parental Fee begins on the service plan start date.

What if a child is participating in multiple Human Services systems? Do they pay the cost share for other programs and the CLTS or CMHSS Parental Fee?

A family would pay the highest cost share or Parental Fee only, not all assessed fees. For example, if a child's family is paying 17% of income for a child in an out of home setting which is higher than the CLTS or CMHSS Parental Fee, that fee would be paid and not the CLTS or CMHSS Parental Fee. Or, if a child is in the Birth to 3 Program and another children's long-term support program, the CLTS or CMHSS Parental Fee would be paid only if higher than the Birth to 3 Program fee.

What if multiple children in a family receive eligible CLTS or CMHSS Parental Fee services?

If a family has more than one child participating in programs where the CLTS or CMHSS Parental Fee applies, the family will be liable for the CLTS or CMHSS Parental Fee for each child separately. (Thus a family with two children would have two CLTS or CMHSS Parental Fees). A county may consider individual waivers or reductions of multiple fees if staff can document a hardship.

What if there are multiple children with disabilities in the family?

A family has the option of using an additional standard deduction of \$3,300 per each additional child with a disability in the family OR deducting their actual medical/dental expenses from the previous year's tax return under Schedule A, itemized deductions. (*Example:* a family with three children with disabilities (where only one child is receiving CLTS or CMHSS Parental Fee eligible services) would have a deduction of \$9,900). Each additional child with a disability must meet eligibility standards for the Katie Beckett Program, an HCBS Waiver, or a Disability Determination threshold to qualify for the additional standard deduction. There is no deduction for adults with disabilities in the family.

What if a family cannot or will not pay the CLTS or CMHSS Parental Fee?

The CLTS or CMHSS Parental Fee is based on a family's ability to pay, with an amount determined based on income and family size. Therefore, if a family cannot or will not pay their individually assessed CLTS or CMHSS Parental Fee, a county should take the following steps:

1. Work with the family to identify why the CLTS or CMHSS Parental Fee has not been paid. Assess if there has been a significant change in family income or size, or cost of plan to see if Fee should be recalculated. If this is done and the family cannot or will not pay, proceed to step 2.
2. A county may assess the situation, and may reduce or waive the family's Fee if there are significant extenuating circumstances (including health and safety concerns). The reduction or waiver of the

Fee must be documented in the child's Individual Support Plan, along with the original Fee assessment. A county may consult with their Regional Children's Services Specialist for guidance on extenuating circumstances. If a fee reduction or waiver is not appropriate, proceed to Steps 3 & 4.

3. The county may reduce the fee to a "judgment" amount, and then institute either county collections or garnishment of wages.
4. The county may, with proper notice, terminate the family from the CLTS or CMHSS Program. The county must provide the family appeal rights.

Income for CLTS and CMHSS Parental Fee

What is adjusted gross income?

The CLTS and CMHSS Parental Fee system uses adjusted gross income as reported to the Internal Revenue Service (IRS). On form 1040, this is line 36 of a 2004 tax return. Adoption subsidies do not count as income. If a family has filed for an extension on their taxes, the "reported amount" that they included on their extension filing should be used until the official return has been filed.

Whose income should be considered for the CLTS and CMHSS Parental Fee?

The income of those person(s) legally responsible for the applicant child living in the household of consideration and other adults over the age of 18 that are included in the family size of the household.

The income of those person(s) the child is under the care of, per the Medicaid Eligibility Handbook:

<http://www.emhandbooks.wi.gov/meh/>

3.5.3 Under The Care

A minor or dependent 18-year-old is under the care of a person when the person:

1. Is a caretaker, and
2. Exercises primary responsibility for the child or dependent 18-year-old's care and control, including making plans for him/her. Once a minor marries, s/he no longer can be under the care of a caretaker relative.

3.5.3.1 Legal Custody

Unless a court has transferred custody to someone else, assume that the child's parents have legal custody of their child.

If a child lives simultaneously with both a non-legally responsible relative (NLRR) and an adult legally responsible relative (LRR), the child is under the care of the relative who is living with the child and who has legal custody of the child.

***Example:** Alice, age six, and her mother, Jane live with Jane's parents. The grandparents have legal custody of Alice. Alice is considered to be under the care of her grandparents, not of her mother.*

If a child lives with his/her parent(s), but legal custody has been transferred to someone else who is not living with them, the child (with one exception) is under the care of his/her parent(s).

3.5.3.2 Joint Custody

When the natural or adoptive parents of a child do not live together, and have joint custody (through a mutually agreed upon arrangement or court order), act on the Family MA case as follows:

1. Determine if the agreement or court order awarding joint custody designates a “primary caretaker.” A parent designated as the primary caretaker is the primary person.
2. If one parent is not designated, ask the parents to decide which one is the “primary caretaker.” If they decide within the 30-day processing, act on the application as based on what they decided.
3. If no decision is made within the 30 days of the application date, review the parents’ activities and responsibilities to determine which parent is the primary caretaker. Use the list below:
 - a. If the parents reside in different school districts, where does the child attend school? Who selected the school?
 - b. Who assists the child with homework or school-related tasks?
 - c. Are there tuition costs for the child’s education? If so, who pays those costs?
 - d. If the child is enrolled in day care, who arranges for and pays these costs?
 - e. Who is responsible for taking the child to and from school and/or day care?
 - f. Which parent is listed as the contact for emergencies at the child’s school or day care provider?
 - g. Who arranges medical and dental care for the child? Who selects the physician and dentist? Who maintains the child’s medical records?
 - h. Who initiates decisions regarding the child’s future?
 - i. Who responds to medical or law enforcement emergencies involving the child?
 - j. Who spends money on food or clothing for the child when the child visits the absent parent?
 - k. Who disciplines the child?
 - l. Who plays with the child and arranges for entertainment?
 - m. Are more of the child’s toys, clothing, etc., kept at one parent’s home than the other’s?

This list is not exclusive, and there may be situations where you find additional criteria to apply. There are cases in which these questions may be answered positively for both parents. However, in reviewing parental responsibilities and roles, usually you will find one parent more often identified. Identify this parent as the primary person for determining eligibility. Document your decision in the case record.

Who should be included in the calculation of family size?

Everyone living in the household. *Any adult over the age of 18 included in the family size must have their income included in the Parental Fee consideration. *Exception: Non-legally responsible adults of the applicant child living in the household may be excluded from the family size, in which case their income would not be considered. Those persons living in the household according to the Medicaid Eligibility Handbook:

1.1.2.1 Additional Family Requirements

A household is all the people living in or temporarily absent from the same residence. In addition to regular household members, include:

- a. Huber law prisoners who are released from jail to attend to the needs of their families.
- b. People in a community residential confinement program. The Department of Corrections (DOC) electronically monitors them.
- c. Those in military service. Answer all non-financial eligibility questions as if s/he were in the home. Do not include him/her in the MA fiscal test group (FTG) or count his/her income or assets.

How must a family verify their income?

A county should use a "Declaration of Income" form (sample provided by the DHFS, counties may make their own form if desired), and/or may request a copy of all families' previous year tax return. For married couples filing jointly, only one Declaration of Income Form and/or tax return is required. For all other adults whose income is being considered for the CLTS Parental Fee, a separate Declaration of Income Form and/or tax return is needed per tax filing.

What if a family's income changes? Should the CLTS Parental Fee be recalculated?

Families may request a recalculation if their income changes significantly from the adjusted gross income reported on the most recent tax return. In this situation, a family may estimate their newly changed income on a new Declaration of income form.

What if a family will not provide their income or other required information?

A county may assess the highest percentage of the CLTS Parental Fee (41%) for the costs of that child's plan.

What if we know a family will not have a Parental Fee based on their eligibility for income-based programs?

If a family is currently receiving: Medicaid (through SSI, BadgerCare, or Healthy Start, or other income-based sources, but not through Katie Beckett MA), Food Stamps, W-2, or WIC (not through Katie Beckett MA), a county may automatically exclude this family from the Parental Fee calculation as their income will be below the 330% Federal Poverty Level threshold established for the CLTS Parental Fee.

What if I see new Federal Poverty Levels have come out for 2006?

Continue to use the 2005 CLTS Charts and Grids until 2006 versions are issued by the Department of Health and Family Services.

Support Plans

Are the costs to be entered for the Individual Support Plan based on planned or actual expenses?

The costs to be entered for the Individual Support Plan are based on planned costs, unless there is a substantial difference between the planned costs and the actual.

What if a child's support plan costs change? Should the CLTS or CMHSS Parental Fee be recalculated?

The fee should be recalculated if the support plan costs change significantly. For example, when a child transitions from Intensive In-Home Autism Services to ongoing services, a recalculation should be performed as this is a significant change in support plan costs. ***IMPORTANT:** This type of transition, whenever it can be anticipated, should be averaged in the Fee calculation and pro-rated across the calendar year.

Would a family with a one-time support plan cost only have a Parental Fee?

Yes.

Medical and Dental Expense Deductions

Why is there a \$3,300 deduction or medical/dental expense deduction allowed?

The CLTS Parental Fee system recognizes that having a child with a disability yields additional expenses in family's budget. The \$3,300 deduction is a standard allowance for having a child with a disability in the family; it is a standard allotment used in other CLTS Programs. A family has the option of using this standard deduction OR deducting their actual medical/dental expenses from the previous year's tax return under Schedule A, itemized deductions.

Can someone include the CLTS Parental Fee in my employer's health savings account?

Items that could be deducted under Medical and Dental Expenses on Schedule A, Itemized Deductions of a tax return may be included in a contribution to an employer-sponsored health savings account.

La Crosse County will provide a letter to a family detailing the nature of the children's long-term support services that are being provided **upon request** if a family would like to work with their employer to have the CLTS Parental Fee included in their health savings account. (See sample – Dawn Scott is the contact person for this letter)

What can I include in medical and dental expenses that I claim on my taxes?

The Internal Revenue Service (IRS) has a web-based guide to assist you in identifying which expenses you may claim to Schedule A of the 1040 form for allowable medical and dental expenses that would qualify as itemized deductions. Please see **IRS Publication 502:** <http://www.irs.gov/publications/p502/index.html>:

What Are Medical Expenses?

Medical expenses are the costs of diagnosis, cure, mitigation, treatment, or prevention of disease, and the costs for treatments affecting any part or function of the body. They include the costs of equipment, supplies, and diagnostic devices needed for these purposes. They also include dental expenses.

Medical care expenses must be primarily to alleviate or prevent a physical or mental defect or illness. They do not include expenses that are merely beneficial to general health, such as vitamins or a vacation.

Medical expenses include the premiums you pay for insurance that covers the expenses of medical care, and the amounts you pay for transportation to get medical care. Medical expenses also include amounts paid for qualified long-term care services and limited amounts paid for any qualified long-term care insurance contract.

How Much of the Expenses Can You Deduct?

You can deduct only the amount of your medical and dental expenses that is more than 7.5% of your adjusted gross income (Form 1040, line 37).

In this publication, the term “7.5% limit” is used to refer to 7.5% of your adjusted gross income. The phrase “subject to the 7.5% limit” is also used. This phrase means that you must subtract 7.5% (.075) of your adjusted gross income from your medical expenses to figure your medical expense deduction.

Example: Your adjusted gross income is \$40,000, 7.5% of which is \$3,000. You paid medical expenses of \$2,500. You cannot deduct any of your medical expenses because they are not more than 7.5% of your adjusted gross income.

Whose Medical Expenses Can You Include?

You can generally include medical expenses you pay for yourself as well as those you pay for someone who was your spouse or your dependent either when the services were provided or when you paid for them. There are different rules for decedents and for individuals who are the subject of multiple support agreements.

Dependent: You can include medical expenses you paid for your dependent. For you to include these expenses; the person must have been your dependent either at the time the medical services were provided or at the time you paid the expenses. A person generally qualifies as your dependent for purposes of the medical expense deduction if all three of the following requirements are met.

1. That person lived with you for the entire year as a member of your household or is:
 - a. Your child (a legally adopted child is considered your child).
 - b. Your stepchild.
2. That person was a U.S. citizen or resident, or a resident of Canada or Mexico for some part of the calendar year in which your tax year began.
3. You provided over half of that person's total support for the calendar year.

How Do You Figure and Report the Deduction on Your Tax Return?

Once you have determined which medical care expenses you can include, figure and report the deduction on your tax return.

What Tax Form Do You Use?

You report your medical expense deduction on Schedule A, Form 1040. You cannot claim medical expenses on Form 1040A or Form 1040EZ.

Other Human Service Programs

How does the CLTS and CMHSS Parental Fee work with the Family Support Program?

If a child is receiving \$3,000 a year or less in service funds including the Family Support Program, then the Family Support Program Ability to Pay system only will apply (due to state statutory requirements). If a child receives over \$3,000 a year in Family Support Program funds, or a combination of Family Support funds and other children's long-term support funds for a combined total over \$3,000 (including match to a HCBS Waiver),

the CLTS and CMHSS Parental Fee will apply.

What if the family has a CARES cost share. Do they pay the CLTS or CMHSS Parental Fee and the CARES cost share?

Yes. The cost share established by County Economic Support through the CARES system is a function of Medicaid Eligibility necessary to be participating in the Medicaid Program. The CLTS or CMHSS Parental Fee is a long-term support fee. Thus, the two fees are for separate purposes, and both must be paid.

What if a child receives less than \$3,000 in support from other human service programs?

The CLTS or CMHSS Parental Fee will apply to all services over or under \$3,000 described in the question (who is affected by CLTS or CMHSS parental fee), with the exception of the Family Support Program where the allocation is less than \$3,000 (per CLTS or CMHSS parental fee working with the family support program question).

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The Children's Long Term Support Waiver and Children's Mental Health Supportive Services is an allowable expense in your health savings account system. We are pleased to provide for you the necessary information detailing the nature of your child's services. Request for documentation to your employer can be made to Dawn Aylsworth in our Fiscal Services at 608-789-4847.