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Overview of the Medical Expense Deduction for the Chronically Ill

Ending the Medical Expense Deduction Would Seriously Harm Many Individuals Paying the High Cost of Long-term Services and Supports

Who needs Long-term Services and Supports (LTSS)?

About half (52%) of Americans turning 65 today will develop a condition that requires LTSS. Individuals needing LTSS are those who require assistance with activities of daily living, such as feeding, getting dressed, or bathing.[1] In many instances, these individuals must be placed in a nursing facility to receive 24-hour care. Conditions that may require LTSS include Alzheimer's disease, Multiple Sclerosis, or spinal cord injury.

How Much Does LTSS Cost?

Individuals can receive care in a variety of settings, such as at home, in an assisted living facility, or at a nursing home. Paying for nursing home care can quickly impoverish middle- and working-class individuals, costing a median of $97,000 a year for a private room. In some circumstances, assisted living facilities can offer a cheaper, more community-oriented alternative to the institutional setting of a nursing home and costs approximately $45,000 a year.[2] Half of Americans turning 65 today will not incur any LTSS costs, while 15% will have costs of more than $250,000.[3]

Who Pays for LTSS?

Due to the high cost of LTSS, government programs cover two-thirds of all LTSS expenses. Medicaid pays for approximately half of all LTSS costs. Medicaid eligibility is complex, but typically to qualify, individuals must have income less than the cost of care and countable resources under $2,000.[4] Many middle- and working-class individuals may start by paying privately or by receiving care from families only to end up on Medicaid as time goes by.

How Does the Medical Expense Deduction Help Individuals with LTSS?

The tax code allows the individual to deduct "qualified long-term care expenses" for people who are "chronically ill," those unable to perform two or more "Activities of Daily Living" (eating, transferring, bathing, dressing and continence) without assistance, or who need constant supervision because of a "severe cognitive impairment" such as Alzheimer's disease.[5] These expenses are usually catastrophic, requiring many Americans to spend all of their income and to liquidate resources to pay for care.

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[1] Favreault and Dey, *Long-Term Services and Supports for Older Americans: Risks and Financing Research Brief*, Office of The Assistant Secretary for Planning and Evaluation (Feb. 2016) Link: https://aspe.hhs.gov/basic-report/long-term-services-and-supports-older-americans-risks-and-financing-research-brief

[2] https://www.genworth.com/about-us/industry-expertise/cost-of-care.html

[3] Favreault and Dey

[4] Reaves and Musumeci, Medicaid and Long-Term Services and Supports: A Primer Kaiser Family Foundation, (Dec. 15, 2015) Link: https://www.kff.org/medicaid/report/medicaid-and-long-term-services-and-supports-a-primer/

[5] Medical expense deduction: 26 U.S.C § 213; definition of "qualified long-term care expenses" and "chronically ill individual:" 26 U.S.C § 7702B(C).

What Will Happen if The Medical Expense Deduction Goes Away?

Fundamentally, many individuals paying for LTSS costs will not be able to pay for both LTSS and federal income tax at the same time. Raising the standard deduction and lowering rates will not address the issue. Why? Because many chronically ill Americans must pay all of their income towards care, and without the Medical Expense Deduction they could still have a tax liability that they cannot afford to pay. Potential impacts include:

- <u>Possible Eviction of Assisted Living Residents.</u> While middle-class individuals can afford private pay at this level of care, it often requires all of their income and more. If the medical expense deduction disappeared, individuals may not be able to afford both the tax and the average $45,000 cost of a facility. These individuals will be evicted from the care facility. Many will qualify for Medicaid nursing home care instantly, which creates a different challenge.

- <u>Uncollectible Tax From Some Medicaid LTSS Population.</u> One pathway for LTSS care through Medicaid requires that the individual, after “spending down” countable resources, contributes substantially all of their income to paying for the cost of care while Medicaid covers the balance. Some of these individuals may therefore have a tax liability and be mandated to provide all funds to Medicaid. This will create an uncollectible tax and potential liens on property.

- <u>Harms Family Caregivers</u>. If a child pays more than half of the cost of a parent's care, they can claim what they paid as a deductible medical expense on their taxes. This assists families who often provide care themselves until they are emotionally, physically and financially exhausted.

- <u>Increased Reliance of Government Programs.</u> Many middle- and working-class Americans must “spend-down” their resources to qualify for Medicaid. Requiring a new tax on individuals already paying all of their income and/or spending down their resources will require Medicaid coverage sooner or even immediately. Worse, Medicaid suffers from an “institutional bias” that mandates more costly nursing home coverage, but leaves the cheaper home and community based services optional. This will place a larger burden on an already stressed federal/state system.

- <u>Ends Key Incentive for Encouraging Personal Responsibility.</u> Our current piecemeal LTSS system driven by Medicaid, a means-tested program, acts as a disincentive for the middle and working class to save. Perversely, many middle- and working-class individuals who develop a chronic illness would have been better off had they not saved at all, thereby allowing them to qualify immediately for Medicaid. The Medical Expense Deduction acts as a key counterweight to that disincentive by substantially expanding the length of time someone could pay privately before needing government assistance.