**Section 140.402 Copayments for Non-institutional Medical Services**

The following implements cost sharing in compliance with 42 USC 1396o (section 1916 of the Social Security Act):

a) Each recipient, with the exception of those classes of recipients identified in subsection (d), shall be required to pay a copayment of $2.00 for generic legend drugs and over-the-counter drugs billed to the Department, and for other services, with the exception of those services identified in subsection (e), the nominal copayment amount as defined at 42 CFR 447.54. For dates of service beginning July 1, 2012 through March 31, 2013 the nominal copayment amount is $3.65. Beginning with dates of service on April 1, 2013 through August 31, 2019, the nominal copayment amount is $3.90. Beginning with dates of service on or after September 1, 2019, recipients will no longer be required to pay a copayment for medical assistance services. Specific copayment amounts are described and updated on the Department's Web site for the following non-institutional medical services:

1) Office visits to enrolled practitioners for services reimbursed under the Illinois Public Aid Code.

2) Each brand name legend drug billed to the Department.

3) Each encounter billed to the Department by an Encounter Rate Clinic (ERC), Federally Qualified Health Center (FQHC) or Rural Health Clinic (RHC), but excluding behavioral services provided by these facilities. For dates of service beginning July 1, 2013 through August 31, 2019, copayments for behavioral health services provided by these facilities are no longer excluded and shall be required to be paid by recipients with the exception of those classes of recipients identified in subsection (d).

b) In each instance in which a copayment is payable, the Department will reduce the amount payable to the affected provider by the respective amount of the required copayment.

c) No provider of services listed in subsection (a) may deny service to an individual who is eligible for service on account of the individual's inability to pay the cost of a copayment.

d) The following individuals receiving medical assistance are exempt from the copayment requirement set forth in subsection (a):

1) Pregnant women, including a postpartum period of 60 days.

2) Children under 19 years of age.

3) All non-institutionalized individuals whose care is subsidized by the Department of Children and Family Services or the Department of Corrections.

4) Hospice patients.

5) Individuals residing in hospitals, nursing facilities, and intermediate care facilities for the developmentally disabled who, as a condition of receiving services, are required to pay all of their income, except an authorized protected amount for personal use, for the cost of their care. For the purpose of this subsection (d)(5), the protected amount shall be no greater than the protected amount authorized for personal use under 89 Ill. Adm. Code 146.225(c).

6) Residents of a State-certified, State-licensed, or State-contracted residential care program where residents, as a condition of receiving care in that program, are required to pay all of their income, except an authorized protected amount for personal use, for the cost of their residential care program. For the purpose of this subsection (d)(6), the protected amount shall be no greater than the protected amount authorized for personal use under 89 Ill. Adm. Code 146.225(c).

7) Individuals enrolled in the "Health Benefits for Person with Breast or Cervical Cancer" program under 89 Ill. Adm. Code 120.500.

8) American Indians or Alaskan Natives.

e) The following medical services are exempt from any copayments:

1) Renal dialysis treatment.

2) Radiation therapy.

3) Cancer chemotherapy.

4) Insulin.

5) Services for which Medicare is the primary payer.

6) Emergency services as defined at 42 USC 1396u-2(b)(2) (section 1932(b)(2) of the Social Security Act) and 42 CFR 438.114(a).

7) Any pharmacy compounded drugs.

8) Any prescription (legend drug) dispensed or administered by a hospital, clinic or physician.

9) Family planning services and supplies described in 42 USC 1396d(a)(4)(C) (section 1905(a)(4)(C) of the Social Security Act), including contraceptives and other pharmaceuticals for which the State claims or could claim federal financial participation at the enhanced rate under 42 USC 1396b(a)(5) (section 1903(a)(5) of the Social Security Act) for family planning services and supplies.

10) Other therapeutic drug classes as specified by the Department.

11) Preventive services as described in section 4106(b) of the Affordable Care Act.

(Source: Amended at 44 Ill. Reg. 4616, effective March 3, 2020)