

Eligible Medical Expenses

Introduction

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Eligible Medical Expenses

Overview

In General

Personal taxpayers may claim a deduction on their income tax filings for medical expenses which exceed certain limits set forth in IRC §213. While there is a minimum, there is not a maximum limit of such deductions.

The examiner is advised to be familiar with the many types of benefits for which deductions have been claimed – as well as those which have been allowed.

As practical matter, plan covered expenses will always be deductible; items permissible as deductions are often not plan covered expenses, however.

Proof Of Expense

For the expense to be deducted, the taxpayer must furnish certain items of information:

- Name and address of provider
- Amount and date of payment
- Substantiation must be available if requested

The burden of proof is on the taxpayer.

General Principles

- If a special diet is required, the additional cost over a normal diet is deductible.
- If permanent household improvements are medically necessary the cost less fair market value of the improvements is deductible.
- When exact amounts are incapable of proof, estimates will be allowed, e.g., reasonable and creditable amounts.
- Expenses for holistic healing, e.g., was not allowed where details as to care, treatment, charges were not available.

Summary

The positions of the Internal Revenue Service and the tax courts are most helpful to the examiner in understanding the nature of health care and its financing.

Footnotes offer a commentary as to what the health care plan's treatment of the particular expense, treatment, etc. would be.

Medical Deductions -Not Transportation

In General

The code provides that certain tests must be met:

- Diagnosis, cure, mitigation, treatment or prevention of disease, injury affecting the structure or the function of body
- Related transportation
- Insurance to shift the risk of such expenses
- Certain away-from-home lodging expenses

The care must be direct and of value.

Doctor told patient he had cancer and gave the patient a booklet on diet and a bill. The bill was not a deduction because there was no treatment.

Child was bedridden. Parents put a window in the room to achieve contact with outside world. The cost of the window was not a deduction.

Taxpayer for requisite exercise reasons put in a pool and claimed a deduction. A neighborhood pool was available but inconvenient because of taxpayer's work schedule. Tax court held the cost of the pool was a proper deduction.

Medical Professionals And Their Services

Medical care encompasses these services:

- Nursing
- Medical
- Laboratory
- Surgical
- Dental
- Diagnostic
- Healing
- X-rays
- Ambulance.

Medical care does not include vacation expenses.

Acupuncture is accepted by the IRS as medical care.

Accepted providers include the following:

- Podiatrists
- Psychologists
- Physicians
- Surgeons
- Dentists

- Ophthalmologists
- Optometrists
- Osteopaths
- Chiropodists
- Psychiatrists
- Christian Science Practitioner.

No Patient – Physician Relationship

Medical care must come from an established patient-physician relationship.

Illegal Treatments – Unlicensed Providers

An illegal treatment is not deductible whether or not the physician is properly licensed. A legal treatment from an unlicensed physician may be deductible but should be watched closely.

Personal v General Health Expenses

Personal Expenditures

Personal, living or family expenses are not medical expenses.

A handicapped person buys an auto with special equipment. The cost of the extra equipment is a deduction. Kleenex for a cold is not a deduction because it is used in one's daily life.

Merely having the item recommended or prescribed by a physician does not make it deductible. Cosmetic surgery is not covered.

General Health Expenses

The items may be beneficial to one's general health; this fact alone does not make them deductible.

Taxpayer paid \$500 to *A* to work in his store while Mrs. *B*, regular employee, did nursing duty on taxpayer's mother. The \$500 is not a deduction.

Taxpayer pays Mrs. *X* \$500 per week to care for taxpayer's child and also serve as family cook and maid. Only the portion of the \$500 for the nursing duties is deductible.

Nursing Services

The extent, purpose and nature of nursing duties is well-established. These are deductible:

- Helping a severe arthritic in/out bed, walking, etc.

- Helping a person with no legs to perform basic functions
- Dressing and grooming an invalid.
- Babysitting so the parent may go to warm climate for chronic health problem.
- Doing housework and baby care for a bedridden tubercular patient
- Being with the patient to be able to call for help in the event of a medical emergency.

This is not deductible:

- Nurse attendant to a well baby.

Nursing and Attendant Services

The nurses do not have to qualify as RN or LPN. The services may be done by a companion or a friend. Charges paid to the nurse may include salary, travel allowance, board, room, social security taxes, unemployment insurance premium, etc.

Cosmetic Surgery

These are not deductible when cosmetic in nature:

- Abortion
- Face lift
- Hair removal by electrolysis
- Hair transplant
- Fertility procedures
- Vasectomy and tubal ligation

These have been established as not deductible:

- Tattoo's
- Ear piercing.

Psychoanalysis and Psychological Counseling

Care must be to relieve a mental illness. It cannot be merely for personal growth, understanding, behavior modification or emotional reasons.

There must be a definitely diagnosed mental illness, such as manic depression.

Disease must be Present or Imminently Probable

A fallout shelter to prevent radiation illness was held not deductible; imminent danger test failed.

Same logic has been applied to sprinkler systems, smoke alarms and fire escapes.

Parent had a daughter, age 6, with a history of lead poisoning. He had the outside paint removed and the house repainted. The expense of the repainting was held deductible.

Therapy Not Performed By Medical Professionals

Issue is: What is care? Need it be by a professional? If there is a reasonable belief that the care could be effective, such is medical care.

- Fees to Health Spa
Deductible if medically prescribed in writing. Patient must have hypertension, arteriosclerosis, e.g.
- Computer Data Bank Fee
Bank had patient's medical records.
- Seeing Eye Attende to Blind Person
Alleviated suffering of the blind.
- Swim Club Membership to Arthritic Child
Physician ordered child to swim frequently.

These are many instances where deductions were not allowed:

- Dancing lessons (physical, social, emotional advantages notwithstanding.)
- Stay at a spa by a person with poor health not medically ordered
- Ballet lessons to correct spinal curvature
- Golf fees for person with emphysema
- Weight loss programs (so-called *fat farms*)
- Funeral and burial expenses
- Vacations
- Smoke cessation programs
- Spiritual healing
- Exotic cures with leaves, herbs, massages, etc.

Capital Expenditures

An expense, otherwise deductible as medical, will not be disallowed merely because it is a capital expenditure. Costs in excess of increase in fair market value are deductible. For example:

Case A

- On doctor's orders *A* installed an elevator because his wife is invalid.
- Cost \$6,000; decreased value to house is \$100.

- Deduction is \$6,000.

Case B

- On doctor's orders *A* put in swimming pool because of wife's disease.
- Cost is \$10,000; increase in value to house is \$6,000.
- Deduction is \$4,000.

Property Not Owned By Taxpayer

Generally a tenant-paid leasehold improvement is deductible.

Swimming Pools

These are deductible but proof is needed that they are not for general recreational use, are needed for the medical condition, are in fact used regularly for therapeutic reasons and are needed due to lack of any reasonable alternatives.

Other Permanent Improvements

Such costs are also deductible.

Capital Expenditures – Not Improvements

The following are examples of capital expenditures which are not property expenditures:

- Eye glasses
- Seeing eye dog
- Air conditioner.

The practice of the IRS is this:

- Determine the cost of the special form
- Determine the cost of the normal form
- Claim a deduction on the excess.

Examples of capital expenditures which were ruled by the IRS or held by the tax court to be deductible are as follows:

- Air Conditioning system
- Artificial teeth or limbs
- Autolette, wheelchair (maintenance and, cost of operation also covered)
- Crutches
- Disposable diapers
- Educational expenses for a child going blind.
- Eyeglasses
- Guide dog for blind

- Hearing aids
- Orthopedic shoes
- Hospital bed (physician – prescribed).
- Iron lung
- Special mattresses
- Recliner chairs
- Telephone equipment of special nature.
- Wigs where hair loss due to disease.

The following are items not deductible.

- General purpose care which gave comfort and ease to a mental patient
- Maternity clothes and antiseptic diaper service
- Mobile phone in auto as a precaution to emergency from heart attack
- Snow/leaf blower because of owner's bad back
- Special telephone presumably to call physician
- CB radio as defensive measure
- Vacuum cleaner to clean dust from air where it was not medically demonstrated to be Needed.
- Van equipped with bed and toilet.

Medicines

Only prescribed drugs are deductible; drugs include a serum and vaccine; insulin is included. The prescription may be by a physician which includes:

- Medical doctors
- Osteopaths
- Dentists
- Podiatrists
- Chiropractors.

Birth control pills are covered. Laetrile is covered where legal.

Special Foods

Most of the instances considered were held to be not deductions. These were held nondeductible:

- Artificial sweetener, unsalted butter, dietetic canned fruit and salad dressing
- Special diet for hypertension
- Special anti-low blood sugar diet.

Institutional-Related Expense Deductions

Primary consideration will be given to the institutions not usually classified as either hospitals or convalescent homes or nursing homes. Examples of such permitted deductions include:

- Cost of a mental institution without any medical personnel
- Cost to maintain a mentally ill boy in a special home
- Motel room and sent-in meals where person gave up his room following surgery in a hospital because of shortage of rooms
- Costs of *half-way* house drug/emotional counseling center
- Costs at an alcoholic therapeutic enter.

Not all such costs are deductible. For example:

- Cost of renting a hotel room when asthmatic taxpayer's air conditioning unit broke
- Cost of a life care facility in excess of direct medical costs.

Institutions may include schools, nursing facilities or life care centers.

Miscellaneous

Indirect losses due to medical conditions are not covered.

- Taxpayer had to fly home while on vacation due to a medical emergency. As a result his care was sold at a loss.
- Doctor advised taxpayer to move to a warmer climate; as a result he took a loss on the sale of his home.

A special rule is followed in transplant surgery. Deductions are taken whether the taxpayer is the donee or the donor.

Expenses resulting from medical care (meals, dodging and transplantation) are deductible if:

- Expense was an essential part of the treatment
- Expense would not have otherwise been incurred.

Encyclopedia Of IRC Covered Or Not Covered Items

In General

A health Flexible Spending Account may only reimburse medical expenses as defined in Internal Revenue Code Section 213. *Note: This is the same definition used by individual taxpayers who take a deduction on their tax return for medical and dental expenses that exceed a percentage of their adjusted gross income.*

Under section 213, medical expenses include amounts paid for the diagnosis, cure, mitigation, or prevention of disease, or for treatment affecting any structure or function of the body, and for transportation primarily for and essential to medical care. Medical expenses also include insulin, medicines and drugs that require a prescription.

Medical Expense Items List

What follows is a list of items that a participant can or cannot treat as eligible medical expenses. **The list is not all inclusive.**

Abortion – Yes, provided the amount is for a legal abortion.

Acupuncture – Yes.

Alcoholism – Yes, for payments to a treatment center for alcoholics or drug addicts. This includes meals and lodging provided by the center during medical treatment.

Ambulance – Yes.

Artificial limb – Yes.

Birth control pills – Yes, provided they are prescribed by the individual's doctor.

Braille books and magazines – Yes.

Capital expenses – Yes, for special equipment installed in a home or for improvements if their main purpose is medical care. The cost of permanent improvements that increase the value of an individual's property may be partly included as a medical expense. The cost of the improvement is reduced by the increase in the value of the property. The difference is a medical expense. If the value of the property is not increased by the improvement, the entire cost may be included as a medical expense. Certain improvements made to accommodate a personal residence or to suit a disabled condition (for the employee, spouse or dependent who lives with the employee) do not usually increase the value of the residence and thus the cost can be included in full as a medical expense. These improvements include, but are not limited to, the following items:

- Constructing entrance or exit ramps to your residence
- Widening doorways at entrances or exits to a residence
- Widening or otherwise modifying hallways and interior doorways
- Installing railing, support bars, or other modifications to bathrooms
- Lowering of or making other modifications to kitchen cabinets and equipment
- Altering the location of or otherwise modifying electrical outlets and fixtures
- Installing porch lifts and other forms of lifts but generally not elevators
- Modifying fire alarm, smoke detectors, and other warning systems
- Modifying stairways
- Adding handrails or grab bars anywhere in the house
- Modifying hardware on doors
- Modifying areas in front entrance and exit doorways
- Grading of ground to provide access to the residence.

Only reasonable costs to accommodate a personal residence to a disabled condition are considered for medical care. Additional costs for personal motives, such as for architectural or

aesthetic reasons, are not medical expenses. If a capital expense qualify as medical expenses, as long as the medical reason for the capital expense still exists.

Chiropractors – yes.

Christian Science practitioners – Yes.

Cosmetic Surgery – Cosmetic surgery is no longer allowed as a medical expense unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease. Cosmetic surgery is defined as any procedure which is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease. Note: *The definition of cosmetic surgery does not just include surgical procedures. Orthodontic work would probably still be allowed since this type of work, for the most part, promotes the proper functioning of the body. Whether or not an expense is reimbursable would to a large extent depend on how the physician explained the procedure on the bill.*

Crutches – Yes, for both buying and renting.

Dancing lessons, swimming lessons, etc. – No. Even if the lessons are recommended by a doctor for the general improvement of health, the answer is still no.

Dental improvement – Yes, including fees paid to dentists for X-rays, filings, extractions, dentures, etc. Note: See cosmetic surgery listing for coverage of orthodontia treatment.

Doctor fees – Yes, including but not limited to chiropodists, ophthalmologists, osteopaths, podiatrists, psychiatrists, surgeons, pediatricians, dermatologists, anesthesiologists, gynecologists, obstetricians, neurologists. A medical expense also includes the cost of supporting a mentally ill dependent at a specially equipped medical center where the dependent receives medical care.

Eyeglasses – yes, provided the eyeglasses or contact lenses are for medical reasons. The fees for eye examinations may also be included.

Funeral expenses. No.

Guide dog or other animal – Yes, for both the cost and care of the dog provided it is used by a visually or hearing impaired person. The cost of a dog or other animal trained to assist persons with other physical disabilities may be included.

Health club dues – No. Amounts paid for health club dues, YMCA dues, or steam baths for general health or to relieve physical or mental discomfort not related to a particular medical condition are not allowable.

Hearing aids – Yes, for both the cost of the hearing aid and the batteries purchased to operate it.

Hospital services – Yes, provided they are not reimbursable from another source.

Laboratory fees – Yes, provided they are not included in medical care.

Laetrile – Yes, provided laetrile is prescribed by a doctor and purchased and used in a location where the sale and use are legal.

Lead-based paint removal – Yes, provided the cost is incurred for removing lead-based paints from surfaces in a person's home with the intention of preventing a child from being exposed to lead-based paint who has or has had lead poisoning from eating the paint. The surfaces must be in poor repair (peeling or cracking) or within the child's reach. The cost of repainting the scraped area is not a medical expense. If, instead of removing the paint, the person covers the area with wallboard or paneling, treat these items as capital expenses (see the capital expense category in this listing). Do not include the cost of painting the wallboard as a medical expense.

Learning disability – Yes, for tuition fees paid to a special school for a child who has severe learning disabilities caused by mental or physical impairments, including nervous system disorders. A doctor must recommend that the child attend the school. Tutoring fees paid on a doctor's recommendation for the child's tutoring by a teacher who is specially trained and qualified to work with children who have severe learning disabilities.

Legal fees – Yes, for legal fees paid to authorize treatment for mental illness. However, if part of the legal fee includes, for example, a guardianship or estate management fee, you cannot include the part in medical expenses.

Lifetime care – Yes, but only the part of a life-care fee that is allocable to medical care received in a retirement home. *Note: You will need to request the retirement home to break down their total cost to determine what portion is attributable to medical care.*

Lifetime care paid in advance – Yes, for medical expenses paid in advance for payments to a private institution for lifetime care, treatment, and training of a physically or mentally impaired dependent by the legal guardian in the event that he dies or becomes unable to provide care. The payments must be a condition for the institution's future acceptance of the dependent and must not be refundable.

Lodging – Yes, for the cost of meals received at a medical facility and lodging at a hospital or similar institution if the primary reason for being there is to receive medical care. *Note: The cost of both meals and lodging is allowable only for the patient. If a patient is accompanied by a parent, the parent's costs of meals are not included as medical expenses; however, the cost of lodging is allowable within limitations (see below for details).*

The cost of lodging for a person receiving medical care (not provided in a hospital or similar institution) while away from home is allowable provided that it meets all of the following requirements:

- The lodging is primarily for and essential to medical care.
- Medical care is provided by a doctor in a licensed hospital or in a medical facility related to, or the equivalent of, a licensed hospital.
- The lodging is not lavish or extravagant under the circumstances.
- There is no significant element of personal pleasure, recreation, or vacation in the travel away from home.

The amount included as a medical expense cannot exceed \$50 for each night for each person. Lodging expenses are also allowable for a person who is traveling with the individual receiving the medical care. For example, if a parent is traveling with a sick child, up to \$100 per night is included as a medical expense for lodging. Do not include the cost of meals and lodging while away from home for medical treatment that is not received at a medical facility, or for the relief of a specific condition, even if the trip is made on the advice of a doctor.

Example: Jim has a heart condition. Jim lives in an area that has cold winters, which makes his condition worse. On the advice of his doctor, Jim and his family spend their winters in a warmer place. They rent a house in Florida. The trip is made to Florida for a specific medical reason. The expenses incurred for food and lodging between Jim's primary residence and his Florida dwelling, and the expenses incurred while in Florida are not allowable medical expenses. However, **Jim's share of transportation expenses between his home and Florida are allowable**. The transportation expenses of Jim's family are not allowable. (See the transportation listing also.)

Maternity clothes – No.

Medicines – Yes, provided the amounts are for medicine, drugs, or insulin that require a prescription by a doctor.

Mentally retarded, special home for – Yes, for the cost of keeping a mentally retarded person in a special home (not the home of a relative) on the recommendation of a psychiatrist to help the person adjust from life in a mental hospital to community living.

Nursing home – Warning: Only the cost of providing medical care for the plan participant, the spouse or the dependents is allowable. This includes the cost of meals and lodging in a nursing home or home for the aged if the main reason for being there is to get medical care. If the care is custodial, then it is not eligible. *Note: It may be difficult to get the nursing home to break down the cost to determine what is attributed to medical care. But this break down is necessary for the expense to be considered eligible.*

Nursing services – Yes. The nursing services need not be performed by a nurse as long as the services are of a kind generally performed by a nurse. This includes services connected with caring for the patient's condition, such as giving medication or changing dressings, as well as bathing and grooming the patient. If the attendant also provides personal and household services, these amounts must be divided between the time spent in performing household and

personal services and the time spent for nursing services. The attendant's meals are considered medical expenses. If additional expenses are incurred for household upkeep because of the attendant, these are allowable (for example, extra rent or utilities paid because of a move to a larger apartment to provide space for attendant). Social security tax paid for a nurse, attendant, or other person who provides medical care are allowable. Does not include the cost of nursing services for a normal, health baby.

Oxygen – Yes, for amounts paid for oxygen or oxygen equipment to relieve breathing problems caused by a medical condition.

Personal use items – Personal use items are allowable only if the item is used primarily to prevent or alleviate a physical or mental defect or illness. For example, a wig purchased upon the advice of a physician for the mental health of a patient who has lost all of his or her hair from disease is considered a medical expense.

Psychoanalysis – Yes. However, if the psychoanalysis is received as a part of the training to be a psychoanalyst, it is not a medical expense.

Psychologist – Yes.

Schools, special – Yes, for payments to a special school for a mentally impaired or physically disabled person if the main reason for using the school is its resources for relieving the disability.

Examples of schools:

- Teaches Braille to a visually impaired child
- Teaches lip reading to a hearing impaired child
- Gives remedial language training to correct a condition caused by a birth defect.

The cost of meals, lodging, and ordinary education supplied by a special school can be included in medical expenses only if the main reason for the child's being there is the resources the school has for relieving the mental impairment or physical disability.

Smoking program – No. The cost of a program to stop smoking, joined for the purpose of improving your general health, even if a doctor suggests the program, is not an eligible medical expense.

Sterilization – Yes, provided that the cost is for a legal sterilization to render a person incapable of having children.

Telephone – Yes, for the cost and repair of special telephone equipment that lets a deaf person communicate over a regular telephone.

Television – Yes, for the cost of equipment that displays the audio part of television

programs as subtitles for the deaf. This may be the cost of an adapter that attaches to a regular set. It also may be the excess cost of a specifically equipped television over the cost of the same model regular television set.

Therapy – Yes, for transportation essential to medical care. Eligible medical expenses include:

- Bus, taxi, train, or plane fare, or ambulance service
- Actual care expenses, such as gas and oil (do not include expenses for general repair Maintenance, depreciation, and insurance)
- Parking fees and tolls
- Parent’s transportation expenses if a parent must go with a child who needs medical care
- Transportation expenses of a nurse or other person who can give injections medications, or other treatments required by a patient who is traveling to get medical care and is unable to travel alone
- Transportation expenses for regular visits to see a mentally ill dependent, if these visits are recommended as a part of treatment.

Do not include as eligible medical expenses:

- Transportation expenses if, for non-medical reasons only, an individual chooses to travel to another city such as a resort area, for an operation or other medical care prescribed by a doctor.

Trips – no, for trips or vacations taken for a change in environment, improvement of morale, or general improvement of health, even if the trip is made on the advice of a doctor.

Tuition fees covering medical fees – Yes, if the charges for medical care are included in the tuition fee of a college or private school and stated separately on the bill. Note: Be careful to avoid reimbursing premiums.

Weight loss program – No, for the cost of a weight loss program for an individual’s general health even if a doctor prescribes the program.

Wheelchair – yes, for the costs of an autoette or a manual or motorized wheelchair used mainly for the relief of sickness or disability, and not just to provide transportation to and from work. The cost of operating and keeping up the autoette or wheelchair is also a medical expense.