

Tax Deductibility of Long Term Care

A detailed analysis interpreting the tax code is beyond the scope of this article. What follows is a broad overview of the types of expenses that may be permitted as long-term-care medical expenses depending on a particular individual's circumstances.

What are tax deductible medical expenses?

Tax-deductible medical expenses may include 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 may also include the costs of equipment, supplies, and diagnostic devices needed for these purposes. Dental expenses are also covered. The incurred expenses must be primarily to alleviate or prevent a physical or mental defect or illness. Expenses that are merely beneficial to general health are not included.

What is long term care?

Long-term care comprises a variety of services that include medical and non-medical care to people who have a chronic illness or disability such as Alzheimer's disease, Parkinson's disease, stroke, congestive heart failure, ALS, arthritis, diabetes, and MS. Long-term care helps meet health or personal needs. Most long-term care is to assist people with support services such as activities of daily living like dressing, bathing, and using the bathroom. Long-term care can be provided at home, in the community, in assisted living or in nursing homes. It is important to remember that persons of any age may need long-term care.

What amount may be deducted and by whom?

To compute the allowable amount of medical deductions for the taxable year, the medical expenses must exceed 7.5% of the taxpayer's adjusted gross income.

Medical expenses paid for by and for taxpayer, taxpayer's spouse and dependents are includible in this calculation. Such expenses for someone with chronic illness or disability disease may be deducted on his or her own return, on a joint return filed with his or her spouse, or on the return of another person if the ill person is the other person's dependent.

What are some tax deductible expenses that might be incurred by someone in need of long-term care?

- Home care, attendant care and home-based respite care: If certification of chronic illness is obtained and services are provided under a plan of care prescribed by a licensed health-care practitioner, the cost of an attendant to perform qualified long-term-care services is a medical expense and is tax deductible.

- Nursing homes, assisted-living facilities, group homes, congregate-living facilities, adult-day-care programs, facility-based respite, etc. The tax code does not specify that qualified-long-term care services must be provided in any particular setting. Thus, as long as a certification of chronic illness is obtained and the services are provided under a plan of care prescribed by a licensed health-care practitioner, qualified long-term-care services should be considered medical expenses irrespective of the type of facility in which provided.

- Home improvements: Reasonable costs to make home improvements are considered medical expenses if the main purpose is medical care and the expense is directly related to medical care.

- Psychiatric care.

- Health insurance premiums including those premiums for qualified long-term-care insurance (not life insurance).

- 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.

- Personal-care services: These are services intended to provide needed assistance with any of the disabilities that cause the individual to be chronically ill and include protection from threats to health and safety due to severe cognitive impairment.

- Prescription medicines and drugs must be prescribed by a doctor. With the exception of insulin, amounts paid for medicines or drugs that are not prescribed (or for any drugs which have been imported from other countries) are not deductible.

- Durable medical equipment, supplies, diapers.

- Entrance and accommodation fees for CCRC (Continuing Care Retirement Community).

How is qualified long-term-care services defined?

Qualified long-term-care services are necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, rehabilitative services, and maintenance and personal-care services that are (1) required by a chronically-ill individual, and; (2) provided under a plan of care prescribed by a licensed health-care practitioner.

Who is a chronically-ill Individual?

Patients may qualify as “chronically-ill individuals” if they meet one of these two tests:

1. Activities of Daily Living (ADLs): patient must be certified as unable to perform, without substantial assistance from another person, at least two ADLs (eating, toileting, bathing, dressing and continence). This disability must exist for at least 90 days and be due to a loss of functional capacity,

2. Substantial Supervision/Cognitive Impairment Test: patients must be certified as requiring substantial supervision to protect themselves from threats to health

and safety due to “severe cognitive impairment”.

The federal tax authorities have given guidance that “severe cognitive impairment” means a loss or deterioration in intellectual capacity that includes Alzheimer’s disease and similar forms of irreversible dementia, and is reported in good faith by clinical evidence and standardized tests that measure impairment in (1) short- or long-term memory, (2) orientation to people, places or time, and (3) deductive or abstract reasoning.

Guidance also exists stating that “substantial supervision” means continual supervision by another person that is necessary to protect severely cognitively-impaired individuals against threats to their health or safety.

What are the required certifications, care plans, etc.?

For purposes of the tax deduction, a person must be certified as meeting the requirements of a chronically-ill individual. This certification must be done by a licensed health-care practitioner (MD, RN, or licensed social worker “within the preceding 12-month period,” which implies an annual review for a person with a chronic illness or disability.) ■