

## **Pharmacies cannot deny prescriptions to Medicaid recipients who cannot pay their prescription co-payments**

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**Federal Medicaid law prohibits medical providers from denying services based on a Medicaid recipient's inability to pay a co-payment.** See 42 U.S.C. 1396o(e).

Some Michigan Medicaid recipients must pay co-payments for each prescription that they get filled at a pharmacy. The co-payments range from \$1.00 to \$3.00 per prescription. If you are a Medicaid recipient and the pharmacy asks for a co-payment that you cannot afford to pay, tell the pharmacy that you cannot afford the payment and that you are asking them to fill the prescription anyway. Under federal law, the pharmacy should still fill your prescriptions, but you will still owe the pharmacy for the co-payment. The pharmacy does not have to “waive” or “forgive” the co-payment and may take steps to collect it from you later. However, federal law does not allow the pharmacy to deny you service as a means of collecting an unpaid co-payment that you cannot afford to pay. (See “More information about Medicaid prescription co-pays” for a more detailed explanation.)

### **If you are a Medicaid recipient and you can't pay a co-payment:**

1. Tell the pharmacy that you cannot afford the co-payment, and
2. Ask them to fill your prescription without payment of the co-payment

### **If you are a Medicaid recipient and your pharmacy refuses to fill your prescription until you pay a co-payment that you cannot afford (and have told the pharmacy of this fact):**

1. Show the pharmacy this paper.
2. If the pharmacy still refuses to fill your prescription and you need more help, Call the State of Michigan's Medicaid recipient help-line at (800) 642-3195

### **Still Having Problems? Seek free legal advice:**

If you are a Michigan Medicaid recipient and the Medicaid recipient help-line does not help you get a prescription filled when you cannot pay your Medicaid co-payment – including a co-payment from a previous pharmacy visit -- get legal advice.

- o Contact the Center for Civil Justice's Saginaw office at (800) 724-7441 or (989) 755-3120

## **More information about Medicaid prescription co-pays**

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### **Can the pharmacy bill me or turn the co-payments over for collection?**

Yes. Federal law does not require the pharmacy to waive or forgive the co-payments that you cannot pay up front. If you do not pay the co-payment, the pharmacy can take action to collect the amount you owe.

Example 1: Mr. Rivers has Medicaid and takes 8 prescriptions each month. The co-payments for his prescriptions total \$16.00 a month. Mr. Rivers tells his pharmacist that he cannot afford the co-payments because he needs all of his income to pay for housing, utilities, food, and transportation. The pharmacist must give Mr. Rivers his prescriptions, but the pharmacy can bill Mr. Rivers for the \$16.00 that he owes, and hire a collection agency if necessary.

### **Does the pharmacy have to accept me as a Medicaid customer?**

No. Providers, including pharmacies, do not have to accept Medicaid recipients as customers or patients. However, they cannot refuse to serve you just because you cannot pay your co-payments.

Example 2: A pharmacy decides that because Medicaid payments are low, it can only afford to have 300 Medicaid customers, but it already has 400 Medicaid customers. The pharmacy decides to tell 100 Medicaid customers that they must transfer their prescriptions to a different pharmacy. The pharmacy could choose the 100 Medicaid customers that they will no longer serve based on how long they had been customers, or how many prescriptions they usually had filled, or their place in the alphabet. However, federal law would prohibit the pharmacy from choosing the 100 Medicaid customers based on the fact that they had been unable to pay their Medicaid co-payments.

Example 3: Ms. Martine has used the same pharmacy for several years. Recently, her grandson came to live with her and she is having trouble making ends meet. Last month, Mrs. Martine told the pharmacy that she could not afford to pay her co-payments. The pharmacy gave Ms. Martine her prescriptions anyway. When Ms. Martine went in to get her prescriptions filled this month, the pharmacy told her they would no longer accept her as a Medicaid customer because she has not paid the \$18.00 in co-payments from last month and she is not able to pay her co-payment for this month. However, the pharmacy is continuing to accept new Medicaid customers, as long as they do not owe the pharmacy for a co-payment. Because the pharmacy is denying service to Ms. Martine based on her inability to pay the co-payments, this violates federal law.

### **I have a Medicaid spenddown – does the pharmacy have to give me my prescription if I cannot pay my spenddown?**

No. A spenddown amount is NOT a co-payment. You must meet your spenddown before you will be eligible for Medicaid. However, some bills that you owe for medical care or services you received can count toward meeting your spenddown, even if you have not paid the bills. Get legal advice if you have questions about spenddown Medicaid. (See “Pharmacies cannot deny prescriptions to Medicaid recipients who cannot pay their prescription co-payments” for information on how to find free legal advice.)

### **Does the same law apply to Medicare Part D, County Plans, the Adult Medical Program, or the Adult Benefits Waiver Program (State Medical Program)?**

No. Medicaid law does not apply to these other medical programs. Under these other programs, the pharmacy must fill your prescription when you can't pay the co-payment if you do not owe any old co-payments. If you got a prescription filled in the past without paying the co-payment, and you did not pay the co-payment later, the pharmacy can refuse to fill your prescription when you come back in for a re-fill or another prescription.