

IRC Section 213 - Deductible Expenses

Federal Medical Expense Deduction for Residents:

This memo summarizes certain IRS guidance in regard to the deductibility of expenses paid by residents or responsible parties to senior housing communities. Because Brookdale is unable to provide tax advice, we recommend that our residents and their families seek the advice of a qualified tax professional. There are two overriding rules that residents need to consider:

- Residents at an **independent living community** who do not pay Brookdale for any healthcare services may not deduct the monthly rental payments made to Brookdale as medical expenses for federal income tax purposes.
- No resident, regardless of the type of community in which they reside, may deduct as medical expenses any payments that are made to Brookdale by a government agency or an insurance company on behalf of the resident, such as Medicaid or payments under a long term care plan.

Under the Internal Revenue Code (IRC) Section 213, if the primary reason that the individual resides in the community is for the need and availability of medical care, then all or substantially all of the amounts paid to the community are fully deductible. If the primary reason for the resident living in a community is for personal or family reasons, then only the portion of those fees that are attributable to medical care would be deductible. It is estimated that 40% of the fees of residing in an Assisted Living and 40% of the fees residing in a CCRC facility are attributed to medical services. In either case, the costs must actually be paid during the tax year and not be reimbursed by another party.

In 1996 the Health Insurance Portability and Accountability Act (HIPAA) refined and expanded the laws governing health care benefits, including clarifying the proper tax treatment under IRC Section 213 of long-term care services. HIPAA provides guidance as to when a resident, by the nature of his or her condition and therefore of his or her need for medical services, may presumptively be considered eligible to deduct the costs of maintenance or personal care services, in addition to medical expenses. All “qualified long term care services,” including “maintenance or personal care services,” are deductible when they are pursuant to a plan of care prescribed by a “licensed health care practitioner” for a “chronically ill individual.”

“Qualified long term care services” are defined as necessary diagnostic preventative, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services that are required by and provided pursuant to a plan of care prescribed by a “licensed health care practitioner” for a “chronically ill individual.” A “chronically ill individual” is further defined as one who has been certified by a licensed health care practitioner as either:

- Unable to perform without substantial assistance from another individual at least two out of six activities of daily living (ADL). The six ADLs are eating, toileting, transferring, bathing, dressing, and continence; or,
- Requires substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

For your tax files, we recommend that you obtain a letter from a licensed health care practitioner, outside your Brookdale community, addressing the health condition of the resident.

Invoices are now available online using the eBill payment portal. See your community’s Executive Director for more information on how to enroll in the eBill payment portal and questions regarding the amount of payments made in the 2024 calendar year.