Medical Assistance Spenddown Requirements and Processes

Health Care Administration

February 2015

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Minnesota Department of **Human Services**

Legislative Report

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Legislative Report

Minnesota Department of **Human Services**

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I. Executive Summary

The Department of Human Services (DHS) completed this report pursuant to Laws of Minnesota 2014, Chapter 312, Article 23, section 44. This legislation requires the Department to consult with stakeholders who may recommend alternative Medical Assistance (MA) spenddown payment requirements and processes.

The Department hosted a stakeholder meeting on this topic on October 29, 2014. The stakeholder group voiced two concerns:

1. The MA income standard for people age 65 and older, blind or disabled is too low, and
2. MA enrollees are not paying their spenddown to providers.

This report only addresses stakeholder concerns with nonpayment of the spenddown.

II. Legislation

Laws of Minnesota 2014, Chapter 312, Article 23, section 44 requires that the Commissioner of the Department of Human Services (DHS) submit to the Legislature by February 15, 2015, a report with recommendations on alternative Medical Assistance (MA) spenddown payment requirements and processes.

Medical Assistance Spenddown Requirements

The commissioner of human services, in consultation with interested stakeholders, shall review medical assistance spenddown requirements and processes, including those used in other states, for individuals with disabilities and seniors age 65 years of age or older. Based on this review, the commissioner shall recommend alternative medical assistance spenddown payment requirements and processes that:

1. are practical for current and potential medical assistance recipients, providers, and the Department of Human Services;
2. improve the medical assistance payment process for providers; and
3. allow current and potential medical assistance recipients to obtain consistent and affordable medical coverage.

The commissioner shall report these recommendations, along with the projected cost, to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health and human services policy and finance by February 15, 2015.

III. Introduction

Federal law provides a state option that allows people to qualify for Medicaid under a "medically needy" basis[1]. Minnesota has elected this option in its Medicaid program, known as Medical Assistance (MA).

Under the medically needy option, a person with income over the MA income standard must "spenddown" their income to the MA spenddown standard by deducting incurred medical expenses from their income.

The Centers for Medicare & Medicaid Services (CMS) describes this option in its *State Medicaid Manual* as follows:

> The "medically needy" option allows States to provide Medicaid to individuals and families who have more income and, in some instances, more countable resources than allowed for Medicaid eligibility under the mandatory or optional categorically needy groups described in §1902(a)(10)(A) of the Social Security Act (the Act). A feature of this option is that an individual or family having income in excess of a State's prescribed income standard can reduce excess income by incurring medical and/or remedial care expenses and establish Medicaid eligibility. This method used for determining eligibility is referred to as spenddown. (State Medicaid Manual Chapter 3, Section 3601)

[1] See 42 U.S.C.§1396(a)(10)(C); and 42 CFR §435.831.

IV. How Spenddown Works in Minnesota

An MA enrollee with excess income[2] must incur medical expenses[3] in an amount equal to the difference between the person's income and the MA income standard. This difference is known as a spenddown. The person with excess income must have incurred medical expenses equal to or greater than the spenddown amount before MA coverage begins. The person is responsible for payment of the spenddown amount toward these expenses. MA pays for covered medical expenses in excess of the spenddown amount.

In Minnesota MA, most people who have income above the MA standard may qualify for MA as medically needy with a spenddown. The following chart shows the monthly MA income and spenddown standards in Minnesota for a household size of one[4]:

MA Income and Spenddown Standards by Eligibility Group

Eligibility Group	MA Income Standard for a Household Size of One	MA Spenddown Standard for a Household Size of One
Parents and relative caregivers	133% FPG ($1,293/month)	133% FPG ($1,293/month)
Children age 2-18	275% FPG ($2,674/month)	133% FPG ($1,293/month)
Pregnant Women	278% FPG ($2,703/month)	133% FPG ($1,293/month)
MA Infants under age 2	283% FPG ($2,753/month)	133% FPG ($1,293/month)
Adults without children age 19-20	133% FPG ($1,293/month)	133% FPG ($1,293/month)
Adults without children age 21-64	133% FPG ($1,293/month)	No spenddown allowed for this group
Age 65 or Older, Blind, Disabled	100% FPG ($973/month)	75% FPG ($730/month)

[2] Income must be less than or equal to the appropriate income standard. Income standards and calculations differ depending on the enrollee's basis of eligibility.

[3] Incurred medical expenses that can be used to meet a spenddown include health insurance premiums, deductibles, and copayments, professional dental and medical services, prescription drugs, medical supplies and equipment and costs for transportation to receive medical care. The enrollee must be legally obligated to pay the expense, and the expense cannot be payable by a third party. Incurred medical expenses may be paid or unpaid depending on the month in which they were incurred and include medical expenses incurred by other family members.

[4] For a complete chart of the MA Income and Asset Guidelines for all household sizes, see http://edocs.dhs.state.mn.us/lfserver/Public/DHS-3461A-ENG

Providers submit their claims for MA enrollees to the state claims payment system, Minnesota Medicaid Information System (MMIS). MMIS rejects claims up to the spenddown amount and begins paying providers when submitted claims are $1 over the spenddown amount.

The spenddown is deducted from claims as they are submitted. This is referred to as "potluck processing," because it is unknown upfront which providers will have to bill the enrollee for the spenddown amount. The enrollee is responsible to pay for medical expenses that are used to meet the spenddown.

Minnesota has two additional ways in which enrollees may choose to meet a spenddown.

1. Client Option Spenddown

Enrollees may pay the spenddown amount directly to DHS the month prior to the spenddown month. Enrollees who do not meet their spenddown are refunded the spenddown after 18 months[5]. Only enrollees with ongoing monthly medical expenses in an amount equal to or in excess of the spenddown are likely to choose this option because of the delay in obtaining a refund in months the spenddown is not met.

2. Designated Provider Option

Enrollees who receive the following services may choose the designated provider option[6]:

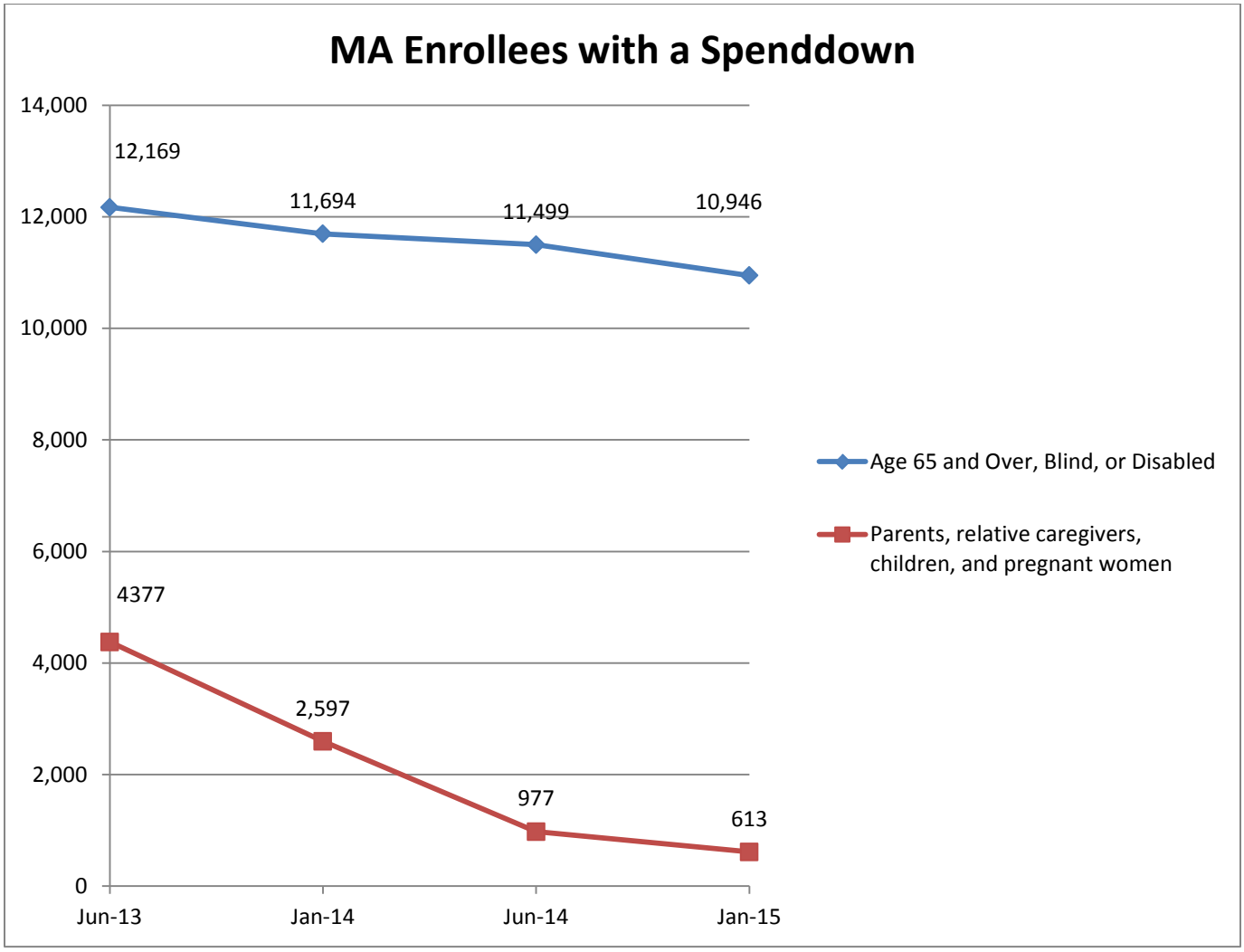
- Personal Care Assistant (PCA) services.
- Home and community-based services through one of the waiver programs: Community Alternative Care (CAC), Community Alternatives for Disabled Individuals (CADI), Brain Injury (BI), Developmental Disabilities (DD) or Elderly Waiver (EW).

Enrollees must be able to meet the spenddown with incurred medical expenses from one provider, i.e., the designated provider. With this option, the enrollee always pays the spenddown amount to the same provider. Claims submitted by this provider are paid, less the spenddown amount.

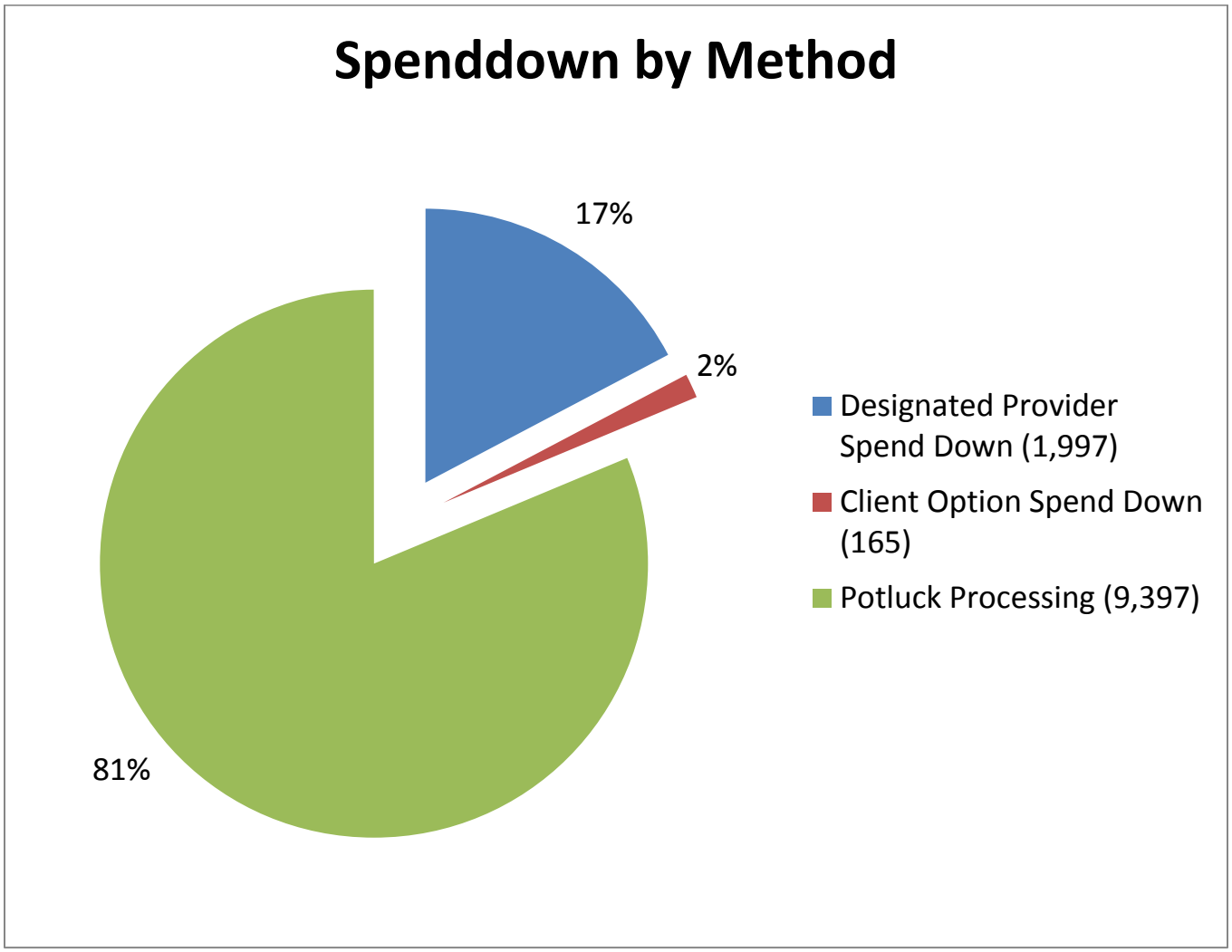
[5] Refunds cannot be made for 18 months to allow providers 12 months to bill, followed by a reconciliation and refund process.
[6] The designated provider option is limited to these providers because these services are most likely to consistently meet an enrollee's entire spenddown amount.

Statistics

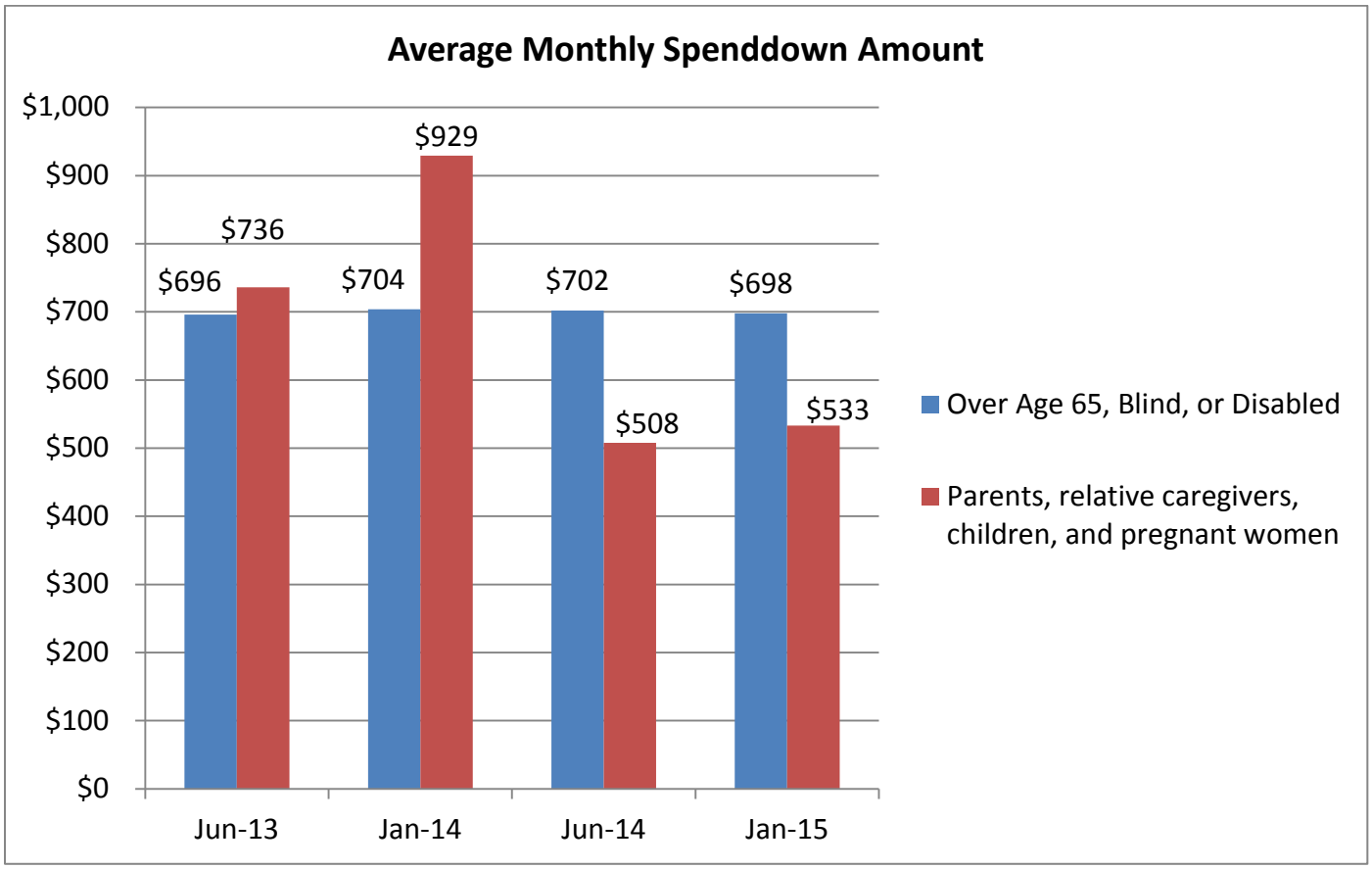
There is an average of 11,559 enrollees each month who have a spenddown. The graph below shows the number of MA enrollees with a spenddown broken down by eligibility groups.



This pie chart shows the breakdown of MA enrollees by the method used to meet the spenddown.



The bar graph below shows the average monthly spenddown amount by eligibility groups.



How Providers Bill and Collect Spenddowns

DHS requires providers to verify enrollee eligibility before providing health care services. Providers use the MN-ITS system to request information regarding a person's eligibility status. MN-ITS includes information about whether a person is eligible for MA and if the person has a spenddown but does not report the spenddown amount or whether the spenddown has been met.

Providers bill the enrollee for medical expenses assigned to the spenddown after they receive a remittance advice from DHS showing the amount the enrollee is responsible to pay. If an enrollee does not pay the billed amount, and it is the provider's standard office policy not to provide services to patients with unpaid debt, the provider may refuse to provide ongoing services to that enrollee, regardless of the enrollee's MA eligibility.

Unpaid spenddowns are treated as debt, and providers may hire a collection agency to collect payment or sell the debt to a collection agency. The collection agency can call or mail, but cannot harass or engage in any other practices prohibited by Minnesota collection law[7]. The provider may also file a suit against the enrollee, and the provider may get a judgment from the court. However, the provider/collection agency is not able to enforce the judgment against the enrollee until the enrollee has been off all public assistance for six months[8].

[7] Minnesota Statutes §332.37.
[8] Minnesota Statutes §550.37, subdivision 14.

V. What other states are doing

Thirty-four states, in addition to Minnesota, currently provide Medicaid to the medically needy group. DHS reached out to other states and asked the following questions:

- What methods do you have for people to pay their spenddown? Please describe your program(s) and any related information about those programs.
- Has your state come up with any creative ways of administering the spenddown for your aged, blind and disabled populations? If so, examples would be extremely helpful.
- Has any state received approval for a section 1115 waiver with permission to depart from the medically need requirements?

We received responses from Maine, Montana, New York, North Dakota, Washington and Wisconsin. No state reported processes significantly different than those used in Minnesota.

Summary of responses:

- No states require prepayment of the spenddown.
- Three states (Montana, New York and Wisconsin) allow prepayment of the spenddown to the state. In New York, the reconciliation occurs annually.
- No state had obtained an 1115 waiver to depart from the federal law related to administration of the medically needy program.

VI. Stakeholder Consultation

On October 29, 2014, DHS hosted a stakeholder meeting regarding this report as directed by the legislature. Staff from several organizations attended the meeting:

- Minnesota Brain Injury Association
- Lutheran Social Services
- Care Providers of Minnesota
- Midwest Association for Medical Equipment Services (MAMES)

Stakeholders acknowledged that this issue impacts both enrollees and providers. The current spenddown standards can lead to enrollees having to choose to pay the spenddown or other bills such as housing and food.

Providers enrolled in MA cannot afford to provide services without receiving payment of spenddowns from enrollees. Although participants agreed that this is a difficult issue, the group identified several possible options that may help alleviate the problem:

1. **Request a section 1115 waiver from CMS to require enrollees to pre-pay their spenddown in advance.**
   Unlike the voluntary client option spenddown currently in place, an 1115 waiver would be needed because requiring prepayment of spenddown is not allowed under federal law.

   This option would essentially employ the same process as the client option spenddown. Providers have up to 12 months to submit claims for services which is followed by a six-month adjustment period. This means that all MA enrollees with a spenddown would be subject to delayed refunds for months in which they don't meet the spenddown. While some administrative changes may reduce the amount of the adjustment period, a substantial waiting period would still exist. Additionally, increased state resources would be needed to administer this option given the small number of enrollees currently using this process.

2. **Change the policy to require the state of Minnesota, rather than the provider, to collect the spenddown.** This option would require the state to pay all claims even when an enrollee doesn't meet the spenddown. Under this option:

   DHS would have to bill and collect spenddowns from enrollees on a monthly basis. This approach would require the state to invest in a new billing and collection mechanism.

   Federal financial participation (FFP) could not be claimed for any MA payments made on behalf of an enrollee who did not meet their spenddown.

   DHS would only be able to pay the Medicaid rate for submitted claims even if the enrollee did not meet the spenddown.

3. **Appropriate a state fund to reimburse providers for unpaid spenddowns.**
   This option would assist providers who cannot afford to lose money because an enrollee has not paid their spenddown and prevent providers from discontinuing services to enrollees who cannot afford to pay their spenddown. This option would require the state to invest in resources to implement and manage the fund. One approach could be to distribute a payment to providers proportionally to the amount of spenddown they were unable to collect from enrollees over a given period of time.

4. **Raise the MA spenddown standard for people whose eligibility basis is age 65 or older, blind, or disabled.**
   The stakeholders believe that the current spenddown standard of 75% FPG for people whose basis of eligibility is age 65 or older, blind, or disabled contributes to the inability of enrollees to pay the spenddown. At 75% FPG, a single individual only has $730 monthly income available to spend on housing, food, and other basic needs in addition to the spenddown amount. Raising the spenddown standard would increase the amount of available income to cover these expenses.

5. **Continue the current process but provide education and assistance to enrollees to help them understand their obligation to pay the spenddown amount at the time they apply.** This could include referring people who are concerned about their ability to pay to the Disability Linkage Line (DLL) who can explore other resources and public assistance programs that may assist in meeting their basic needs.