

**NEW YORK**  
state department of  
**HEALTH**

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Commissioner

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**ADMINISTRATIVE DIRECTIVE**

**TRANSMITTAL:** 11 OLTC/ADM-1

**TO:** Commissioners of  
Social Services

**Division:** Office of Long Term Care

**Date:** April 26, 2011

**SUBJECT:** Long Term Home Health Care Program Waiver Renewal

**SUGGESTED  
DISTRIBUTION:**

Medicaid Staff  
Home Care Services Staff  
Legal Staff  
Fair Hearing Staff  
Long Term Home Health Care Program providers  
AIDS Home Care Program providers

**CONTACT  
PERSON:**

Any questions concerning this release should be directed to Laura Fiato, Bureau of Medicaid Waivers, by calling 518-474-5271

**ATTACHMENTS:**

Attachment I: Consumer Information Booklet, forms and instructions  
Attachment II: Waiver Services Definitions  
Attachment III: LDSS and LTHHCP Agency Quality Assurance Responsibilities  
Attachment IV: Reporting Forms and instructions

**FILING REFERENCES**

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
83 ADM-74		18 NYCRR 505.21	SSL 367-c	LTHHCP	"Health and Safety Standards for Certified Home Health Agencies", Health Facilities Series, 93-3 January 29, 1993
85 ADM-26		18 NYCRR Part 358	SSL 367-e	Reference	
85 ADM-27		10 NYCRR 763.5	PHL 3616	Manual	
90 ADM-25		10 NYCRR 700.2		(6/06)	
92 ADM-25		(b) (24)			
02 OMM/ADM-4					
09 OLTC/ADM-01					

## I. PURPOSE

This Administrative Directive (ADM) advises Local Departments of Social Services (LDSS) of the renewal of the 1915(c) Long Term Home Health Care Program (LTHHCP) Medicaid waiver granted by the federal Centers for Medicare and Medicaid Services (CMS) for the period September 1, 2010 through August 31, 2015.

The ADM consolidates previously issued Local Commissioner Memorandum (LCM) and General Information System (GIS) notices with regard to required quality assurance and data collection.

The ADM provides the following guidance and information about CMS authorized changes to the LTHHCP waiver program:

- Quality assurance requirements for participant choice and service satisfaction (Page 4 and Attachment I);
- Extended participant reassessment period from every 120 days to every 180 days (Page 5);
- Enhancements to existing waiver services: Environmental Modification (Housing Improvement) and Medical Social Services (Page 9 and Attachment II);
- Instructions related to use of three new waiver services: Home and Community Support Services; Community Transitional Services; and, Assistive Technology (Page 10 and Attachment II);
- Procedural changes for spousal impoverishment budgeting for waiver participants (Page 15); and,
- New data collection and analysis reporting requirements (Page 15 and Attachment IV).

## II. BACKGROUND

The LTHHCP has served individuals since 1983, enabling the State to provide participants with a number of supportive services not otherwise available under the New York State Plan for Medicaid services. In response to consumer input obtained through a participant survey, the 2010 LTHHCP waiver renewal updated the original focus on care within the home to reflect the current federal and State emphasis on increased opportunities for informed choices for consumers, consumer independence, and involvement with care.

The LTHHCP waiver has three main objectives:

- To prevent premature and/or unwanted institutionalization;
- To enable institutionalized individuals to return to their community; and,
- To provide access to cost effective coordinated care, case management, and monitoring of participants' health status.

CMS requires states to renew Home and Community Based Services (HCBS) waivers authorized under Section 1915c of the Federal Social Security Act every five years. Under the approved 2010 renewal, LTHHCP will

continue to serve seniors and individuals with physical disabilities who: are medically eligible for nursing facility (NF) level of care; choose to remain at home; have assessed service needs that can be met safely in the home and community; and, have a service plan with Medicaid costs for services which fall within the participant's county of residence expenditure cap for nursing facility level of care.

Under the renewal, LTHHCP is available in all counties of New York State with the exception of: Livingston, Hamilton, Schoharie, Lewis, Essex, Chenango, and Schuyler Counties.

The renewal application specifically references the AIDS Home Care Program (AHCP) as a subset of LTHHCP. AHCP was instituted in 1992 to meet the challenge of the high incidence of AIDS in New York State. Certain LTHHCP agencies are approved by the CMS and the New York State Department of Health (NYSDOH) to provide the AHCP. These agencies provide the full complement of health, social, and environmental services provided by all LTHHCP agencies. (Refer to Required Action, Subsection D, Budgeting for information concerning a required change to budgeting rules for individuals in the AHCP on Page 14.)

Since January 2004 when the LTHHCP was last renewed, CMS has significantly increased quality assurance requirements for HCBS waivers that affect all aspects of waiver administration and service delivery. To comply with these new requirements, the LTHHCP waiver renewal application amended a range of waiver policies and procedures described below in Section III. Program Implications.

### **III. PROGRAM IMPLICATIONS**

New York State Department of Health, LDSS and LTHHCP agency staff must implement new policies and procedures included in the application and reflected in this ADM to bring the waiver management into compliance with current Federal standards required for continued waiver authorization and Federal Financial—Participation for waiver service costs.

The new/revised policies and procedures are to improve waiver quality care and accountability related to the following subjects: participant informed choice, involvement in care planning, and satisfaction with care and services; case management services by LTHHCP Registered Nurses (RN); extended reassessment time frames; new and/or revised waiver services; revised AIDS Home Care Program (AHCP) requirements; and, quality assurance processes.

### **IV. Required Action**

The LTHHCP Reference Manual, first published June 2006, is currently under revision to reflect: changes in LTHHCP as a result of the waiver renewal; new quality assurance activities implemented since the 2006 publication of the current Manual; and, notice and fair hearing procedures for AHCP.

**NOTE:** Until the revised manual is released, the policy and procedural changes described in this ADM take precedence over those in the Manual.

**A. Participant informed choice and satisfaction**

For individuals who ask the LDSS for long term care services either directly or through referral, LDSS staff must provide objective information regarding the various home care options available to individuals and, as appropriate, their family and significant others. LDSS staff must advise all waiver applicants of choices among the following options:

- Community based services or institutional care;
- Available waiver programs for which the individual is potentially eligible;
- Medicaid State Plan services; and,
- Participating providers of such programs/services.

Those who wish to pursue waiver participation must be informed of their right to choose among appropriate waiver services as well as the provider of those services.

As noted in GIS 10 OLTC 001, LDSS staff must provide the "Long Term Home Health Care Program/AIDS Home Care Program Consumer Information Booklet" to all individuals seeking nursing home placement, applicants for and participants of LTHHCP/AHCP, and other interested individuals.

In alternate entry cases, the LTHHCP agency must inform potential participants of all long term care options, including use of general Medicare or Medicaid home care services, other Home and Community Based Services waivers and Managed Long Term Care. The LTHHCP agency must provide the potential participant with a copy of the Consumer Information Booklet and its attachments, and the Freedom of Choice form must be signed by both the consumer and the LTHHCP/AHCP representative.

The Consumer Information Booklet includes: consumer information about LTHHCP/AHCP; brief information on other Medicaid waiver programs; and, specific information regarding the Freedom of Choice, the Consumer Contact Information form, and the Consumer Satisfaction Survey.

The purpose of the Consumer Information Booklet and accompanying forms is to comply with CMS waiver quality assurance requirements by means of the following actions:

- Provide pertinent information about the LTHHCP/AHCP;
- Document applicant/participant choice of Medicaid home care services and/or other available Medicaid waiver programs;
- Provide pertinent contact information to enrolled LTHHCP/AHCP participants; and,

- Survey participant satisfaction as required for the LTHHCP/AHCP LDSS Quarterly Reports to NYSDOH.

The Booklet, with forms and instructions, is included in this ADM as Attachment I. The documents and forms must be reproduced by the LDSS. NYSDOH will notify LDSS staff when new forms and informational materials become available. Electronic documents will be posted to the NYSDOH Office of Health Insurance Program (OHIP) intranet site or through CentraPort.

LDSS staff play an integral part in the unbiased development of the individual's Plan of Care, thus assuring that the assessed needs are met and the participant's choice is considered. LDSS participation in the assessment and other processes mitigates potential inappropriate influence in provider selection.

If the LDSS staff does not agree with the proposed service plan for the individual, they must advocate for the individual with the LTHHCP agency and the physician as needed to adjust services to meet the individual's needs or choice. As an additional safeguard, the individual's physician must review and approve/sign the Plan of Care. The involvement of the LDSS and the individual's physician are important for purposes of the waiver complying with CMS expectations for participant choice.

#### **B. Assessment and Reassessment**

The purpose of the initial assessment and periodic reassessment to confirm and document that the applicant meets the waiver's level of care criteria remains critical to assure compliance with federally required eligibility criteria. Under the renewal, assessment and reassessments by the LDSS and LTHHCP agency must involve the applicant, the applicant's family if applicable, and a legally designated representative, or other individual(s) of the applicant's choice.

The waiver renewal implements legislation enacted in June 2010 to extend the reassessment time frame from every 120 days to every 180 days, or more frequently when a participant's service needs change. LDSS staff were instructed to phase-in the new policy effective September 1, 2010, as participants' existing 120 day authorizations expired and subsequent reassessment could then be authorized for 180 days.

The New York State Long Term Care Placement Form, Medical Assessment Abstract (DMS-1), will continue to be used for individuals age 18 and above.

The waiver renewal application includes, as approved by CMS, the use of certain LTHHCP alternative processes for admission to the waiver or eligibility for the waiver, including:

- Continuation of the Alternate Entry process that allow LTHHCP agencies to initiate services in the home prior to LDSS authorization for waiver participation.

- Continuation of *permission for a physician to override* an individual's DMS-1 score by providing medical rationale to justify entry into the waiver or budgeting services at the higher Skilled Nursing Facility expenditure cap.

Documentation of the physician's justification to support such overrides, including any information obtained during reassessment, must be signed and dated by the physician and must be retained by both the LDSS and LTHHCP agency in the participant's case record.

### **C. Waiver Services**

The Plan of Care includes the range of waiver and non waiver services necessary to allow the individual to remain in the community, and supports the individual's health, welfare, and personal goals. Each service, waiver or non-waiver, must be documented in the participant's Plan of Care, be cost-effective, and necessary to avoid institutionalization.

Note: Plan of Care continues to be the term used by the State for the LTHHCP; federally, the term "service plan" is also used for HCBS waivers. See section 6 on page 9 of this ADM, for description of new wavier services approved by CMS.

#### **1. LTHHCP agency responsibilities**

- Provide or arrange for the provision of waiver and non-waiver services:

The waiver renewal continues the policy that all waiver and non-waiver services are either provided or arranged for by the certified LTHHCP agency. The overall responsibility for coordination of all services, whether provided directly or through arrangements or sub-contracts, rests with the LTHHCP agency with responsibility for admitting the participant and implementing his/her Plan of Care.

- Verification of qualified provider:

LTHHCP agencies must have appropriate contracting policies and procedures. Each LTHHCP agency is responsible for verifying and assuring that all individuals or entities, with whom the LTHHCP agency has a contract for the delivery of one or more of the waiver services, are appropriately licensed, certified, and continue to meet the established qualifications for providing a specific LTHHCP service. Waiver service provider qualifications are provided in Attachment II Waiver Services Definitions.

#### **2. Case Management**

Under the renewal, CMS permits the State to continue to provide case management in the waiver as an administrative function of the LTHHCP agency. While not a discrete waiver service, it is a critical component to waiver eligibility and

continued participation. To be eligible for the LTHHCP waiver, the individual must require service coordination, which includes but is not limited to, assessing the need for, coordinating, and monitoring all services needed to support the individual in the community.

In the LTHHCP, case management involves a comprehensive approach to the assessment and reassessment for all needed medical, psychosocial, and environmental services, and the coordination, delivery, and monitoring of all services in the individually approved Plan of Care that support the LTHHCP participant in the community within the individual's approved Plan of Care. This approach allows for services to be tailored to address all individual participant needs and to be well-coordinated, assuring an appropriate and cost-effective plan of care. LTHHCP agencies providing AHCP are able to tailor services to the needs of individuals with HIV/AIDS.

The LTHHCP agency provides case management to waiver participants through development and implementation of the Plan of Care. The LTHHCP agency RN must complete the DMS-1 form and applicable sections of the Home Assessment Abstract, identify necessary services, develop the Plan of Care, and obtain physician orders. The LTHHCP agency Registered Nurse (RN) is responsible for assuring that the Plan of Care is signed by the physician, implemented as intended, and modified when necessary. The RN coordinates, oversees and assures the delivery of all services in the Plan of Care; monitors all service providers, and supervises personal care and home health aides in the home.

For further information on the LDSS and LTHHCP agency roles in case management, refer to Attachment III LDSS and LTHHCP Agency Quality Assurance Responsibilities concerning federal quality assurance requirements for waiver programs.

**3. Applicant/participant involvement in care planning**

The applicant/participant has the right to choose any person to assist in the development of their Plan of Care, but must involve, as appropriate, the applicant, the applicant's family, legally designated representatives, and/or other individuals of the applicant's choice.

**4. Choice of providers and services**

Waiver applicants/participants have the right to choose from among qualified waiver service providers and to choose providers at any time, subject to availability. If a participant wishes to change LTHHCP agencies, and there are other available agencies serving the area, the LDSS must collaboratively work with the participant, the current LTHHCP agency, and the new LTHHCP agency to accomplish this change.

When developing the Plan of Care, the LTHHCP agency must inform the applicant/participant of the various available waiver services providers it has under subcontract. The applicant/participant has the right to choose from among available qualified providers.

The original model of the LTHHCP as a "nursing home without walls", under which the LTHHCP agency is vested with comprehensive responsibility for waiver services, remains a model preferable to many consumers as well as providers of the discrete waiver services. However, CMS required NYSDOH to develop a process by which qualified entities may enroll in LTHHCP as independent providers of waiver services. The waiver renewal now permits a waiver service provider to pursue direct enrollment with NYS Medicaid, if they do not wish to affiliate through subcontract with a LTHHCP agency. Procedures for direct enrollment will be developed by NYSDOH and, when available, shared with LDSS staff and providers.

#### 5. New and/or modified waiver services

As Plans of Care for new applicants are developed or are reassessed for current participants, LDSS and LTHHCP agency staff must now consider the use of the new or modified services added under the renewal, and discuss options for change with participants and/or their representatives.

Definitions of all waiver services under the renewal are provided in Attachment II.

##### a. **Modified waiver services:**

- Enhancement of **Medical Social Services** to include supportive counseling for individuals to help them adjust to living in the community with a disability.
- Home Improvements service was renamed **Environmental Modifications** (E-Mod), reflecting the more current terminology and a broadening of the scope of service to include vehicle modifications.

The following process is to be followed for authorizing E-Mods for the home or vehicle:

- If the cost of the project is under \$1,000, the LDSS may select a contractor (taking steps necessary to ensure reasonable pricing) and obtain a written bid from the selected contractor, which includes all terms and conditions of the project.
- If the cost of the project is more than \$1,000, a minimum of three written bids must be obtained. The LDSS may waive this requirement at its discretion (e.g. geographic limitations), documenting the reasons in the case record.



- Bids of over \$10,000 require architectural and engineering certification to ensure that the improvement conforms to NYS Fire and Building Code.

E-Mods for the home include, but are not limited to:

- Installation of wheelchair ramps;
- Widening of doorways;
- Modifications to permit independent use of a bathroom or facilitate bathroom use with assistance;
- Stair glides; or,
- Purchase of a backup generator for **critical life sustaining** medical equipment.

E-Mods for the home are **NOT** to be used to:

- Build any portion of new housing construction;
- Build room extensions, or additional rooms or spaces, beyond the existing structure of a dwelling;
- Renovate or build rooms for use of physical therapy equipment;
- Purchase equipment such as therapeutic equipment or supplies, exercise equipment, televisions, video cassette recorders, personal computers, etc;
- Purchase swimming pools, hot tubs, whirlpools, steam baths or saunas for either indoor or outdoor use;
- Pave driveways;
- Purchase central air conditioning, freestanding air conditioners or humidifiers;
- Purchase and/or install elevators;
- Purchase items that benefit members of the household other than the LTHHCP participant, or are of general utility for the residence; or,
- Purchase service or maintenance contracts.

Vehicle modifications may be made if the vehicle is the primary means of transportation for the waiver participant. Such modifications to assist with access into or out of a vehicle may include but not be limited to:

- Portable ramp; or,
- Swivel seat.

E-Mods for a vehicle are not to be authorized, if:

- The vehicle is not in good repair;
- The vehicle is not the primary means of transportation for the participant;
- The cost of the modification cannot be managed within the individual's expenditure cap.

**b. New waiver services:**

- Addition of **Community Transitional Services** to assist with the cost of first-time moving expenses and/or establishing a household when transitioning from a nursing facility to the community. This service is not intended to assist in the move of an individual from one community residence to another and is limited to one time per waiver enrollment. Expenditure limitations are based on the individual's expenditure cap. This service may include such expenditures as:
  - Cost of moving furniture and other belongings from the nursing home to the new residence in the community;
  - Security deposits required to obtain a lease or utilities, exclusive of monthly rental fees;
  - Purchasing essential furnishings, such as a bed or table and chair for meals, exclusive of such equipment for entertainment as TVs, computers, etc.; and,
  - Health and safety assurances, such as pest removal, allergen control or one time cleaning prior to occupancy.
- Addition of **Assistive Technology (AT)** to incorporate the existing Personal Emergency Response System (PERS) waiver service and expand the scope of the service to take advantage of newer technologies. It is suggested that LTHHCP and LDSS staff develop a listing of potential Assistive Technology devices for NYSDOH consideration as service criteria is developed. LDSS staff and LTHHCP agencies will be notified by NYSDOH when additional AT devices are approved for use. As of the issuance of this ADM, Medication Dispensing machines (i.e., MD2) have not been approved for use.

AT may include items such as:

- Lift chair that allows the participant to rise independently to a standing position, thus reducing the need for personal assistance;
- Devices to assist the hearing impaired, e.g. flashes a light when the door bell rings; or,
- Sensor to activate an alarm when a cognitively impaired individual attempts to elope from the home.

AT items allowable as State Plan Durable Medical Equipment are not covered or billable as a LTHHCP waiver service. In addition, any item covered by a third party payer, such as Medicare or private insurance, must be billed to that entity **before** billing Medicaid.

Most LTHHCP agencies offer PERS as a waiver service and may continue to do so within the assistive technology service. PERS may be provided as a State Plan service in some instances.

When LDSS staff review a LTHHCP Plan of Care and/or a request for authorization of PERS as a State Plan service, care must be taken to prevent duplication. Editing in eMedNY prevents billing for duplicate PERS claims for the same client in the same service period; proper coordination during Plan of Care development will minimize disruption for the participant, as well as, LDSS and LTHHCP agency staff.

- The addition of **Home and Community Support Services (HCSS)** combines personal care with oversight and supervision and cueing services, as well as assistance with activities of daily living (ADL) and/or instrumental activities of daily living (IADL) to support participants who have cognitive deficits and a discrete need for supervision and safety monitoring.

In the development of the Plan of Care, LDSS and LTHHCP agency staff must identify whether the applicant or participant has unmet needs for discrete supervision and/or safety monitoring/cueing. If the individual also requires ADL and/or IADL assistance, the waiver Plan of Care should include HCSS to meet all those needs. Such services are to be billed by the LTHHCP agency using the appropriate HCSS rate codes.

If there is no need for discrete supervision and/or safety monitoring/cueing, but there is an unmet need for ADL and/or IADL services, personal care services may be appropriately provided and billed by the LTHHCP agency.

#### 6. Need for waiver services

In the past, participants in the LTHHCP waiver must be in need of case management and be eligible to receive one or more of the waiver services to assure health and welfare and provide support for community living. Under the LTHHCP renewal, an individual **must** be in need of and in receipt of case management **and** at least **one other waiver service every 30 days** to participate in the waiver. For purposes of this requirement, case management does **not** count as the one required waiver service, because it is an administrative function of the LTHHCP agency and not a discretely billable waiver service.

**7. Reimbursement for services**

As of the issuance of this ADM, the rate codes established for new waiver services include: Assistive Technology (AT) - rate code 3143; Community Transitional Services (CTS) - rate code 3144; and, Home and Community Support Services (HCSS) - rate code 3145.

Both AT and CTS rate codes will be added for use to all LTHHCP agencies' eMedNY rate file. The eMedNY rate file update for these services is anticipated for May 1, 2011. A letter is automatically sent by eMedNY to the LTHHCPs notifying them of the addition to their rate file. AT and CTS rate codes have a simplified claiming structure that allows the LTHHCP to submit one claim for the total LDSS authorized cost for the service. For example, if an item provided under AT has a total cost of \$192.50, the claim submitted for the date of service will be for \$192.50.

Rates for the new service of HCSS are currently being developed by DOH and must be approved by the Division of Budget before this service may be initiated. The HCSS rate is to be initially equated to the ceiling rate for the PCA Respite hourly rate. LTHHCP agencies will receive their rates and rate codes for HCSS with their 2011 final rates. An effective date for use of HCSS is the date of release of the 2011 final rates which is anticipated in June 2011. Specific instructions for implementation of HCSS will be issued to LDSS staff and LTHHCP agencies at that time.

The existing Housing Improvement rate codes - 9998, 9995, or 9992, were retained for use with the expanded service of Environmental Modifications (E-mod) to claim for both housing modification and vehicle modification. The rate code claiming structure is being amended to allow for a simplified claiming process. Previously, the LTHHCP was required to submit multiple consecutive claims at \$2.00/unit with a maximum of 99 units/day until the total cost of the home improvement was claimed. Under the new simplified claiming structure, the LTHHCP submits one claim for the total LDSS authorized cost for the home or vehicle modification. For example, if the E-mod has a total cost of \$5,092.50, one claim is submitted on the date of service for the total cost of \$5,092.50. This change is anticipated for May 1, 2011 and will occur in conjunction with the rate file update for AT and CTS.

The effective date for use of AT and CTS is anticipated for May 1, 2011. Claims with service dates prior to the effective date will be denied. The effective date for the change in claim processing for E-mods is also anticipated for May 1, 2011. Currently, Housing Improvements continue to be available and claims for housing improvements with service dates prior to the anticipated effective date for E-mod implementation must continue to be process at \$2/unit. E-mods with service dates after the implementation effective date will be claimed at one hundred percent of the approved cost.

**NOTE: E-mods related to vehicle modifications will be implemented with the effective date of AT, CTS and, the eMedNY claim processing changes.**

**D. LTHHCP Participant Monthly Budgeting**

The State must continue to assure cost neutrality of the waiver.

Generally, the rules under which the LDSS budgets services for an individual under the waiver remains unchanged:

- The individual expenditure cap set by NYSDOH is equated to 75 percent of the average cost of nursing facility care in the individual's county of residence as updated for each State fiscal year;
- Medicaid expenditures for LTHHCP services may be up to 100 percent of that expenditure cap for persons designated as special needs;
- If the individual is a resident of an adult care facility (ACF), the expenditure cap is 50 percent of the average cost of nursing facility care to account for services provided by the ACF.

The 2010 waiver renewal includes a required change to budgeting rules for individuals in the AIDS Home Care Program (AHCP). Until this renewal, there was no stated limitation on the budget for services provided to individuals in AHCP. **With the renewal, budgeting for AHCP participants must follow the same expenditure cap rules applicable to other LTHHCP participants. Consequently, effective with the issuance date of this ADM, monthly budgets must now be calculated for AHCP participants beginning with the individual's application for the program or upon the next reassessment.**

Policies and procedures for calculation of a prospective or enrolled participant's service budget remain unchanged.

Staff **must** include Medicaid reimbursed services in the participant's monthly budget. Medicaid reimbursed services, including, but not limited to, adult day health care, medical transportation, durable medical equipment, clinic services, and Office of Mental Health Community Residence rehabilitative services, **must** be included in the monthly budget in addition to LTHHCP agency services.

LDSS and LTHHCP agencies must work together to address the individual participant's circumstances, if the services required during a given period cause his/her cost limit to be exceeded. Both paper credits and annualization of the budget are effective in addressing fluctuations in an individual's needs. In addition, LDSS and LTHHCP agency staff must also consider other means of maintaining the service budget within the limit, including: maximization of third party resources; increased use of informal supports including community social services and/or family; and service substitution.

For example, it may be possible to use the waiver service of moving assistance to relocate a participant closer to a family member; the family member is then able to provide informal support on a more frequent basis, which lowers the participant's budget for paid assistance. Alternatively, initiating attendance at adult day health care may be a more cost effective means of providing coordinated services; however, all services available through the adult day health care must be provided at the facility and not duplicated by services in the home by the LTHHCP agency. Each case is unique and requires discussion with the participant and the participant's supports about his/her options and choices.

If services can not be maintained within the budget after alternatives are considered, participants must be informed and referred to other options for care as necessary. This may include the range of existing State Plan home care services, other available 1915c waivers such as the Nursing Home Transition and Diversion waiver, and Managed Long Term Care.

**E. Medicaid Financial Eligibility**

Medicaid financial eligibility for participation in the LTHHCP waiver is determined by the LDSS.

Effective September 1, 2010, CMS approved the Home and Community Based Services (HCBS) Expansion Program to allow continued use of spousal impoverishment budgeting for a married individual with a community spouse, who otherwise would be Medicaid eligible if institutionalized and spousal impoverishment eligibility and post-eligibility rules were used.

The Office of Health Insurance Programs will issue a separate ADM with complete implementation instructions for the use of spousal budgeting (household of one) and spousal impoverishment budgeting through the HCBS Expansion Program. Until such instruction is provided, current spousal impoverishment budgeting should be continued.

**F. Quality Assurance**

CMS has set more rigorous requirements for NYSDOH in terms of oversight and monitoring responsibilities for quality assurance (QA) and quality improvement with respect to the 1915c HCBS waiver programs. Compliance with CMS assurances is required as a condition of Federal waiver approval and Federal Financial Participation.

Each LDSS and LTHHCP agency plays a critical role in assuring quality under the waiver. Attachment III, of this ADM, summarizes the key responsibilities of LDSS and LTHHCP agencies in the waiver's comprehensive quality management program. The responsibilities are sorted using the six waiver assurances required by CMS of all 1915c HCBS waiver programs.

In addition to the longstanding NYSDOH surveillance activities of LTHHCP agencies, NYSDOH has implemented increased oversight activities of LDSS waiver administration, including an annual review of a statistically valid sample of LTHHCP participant case records and Medicaid claims for services.

To improve accountability and quality of care under the HCBS waivers, increased QA requirements for record keeping from the point of an individual's application through to service planning, delivery, and outcomes has been implemented. To meet these standards, NYSDOH developed processes for:

- Ongoing tracking of timeliness of applicant LOC determinations and adherence to assessment and reassessment requirements of being conducted at least every 180 days.
- Ongoing evaluation and reporting of waiver participants' satisfaction with services.
- Ongoing reporting of concerns related to waiver provider practices that may lead to investigation and need for remediation.
- Ongoing reporting by LDSS staff regarding identification of significant alleged occurrences of abuse, neglect, and/or exploitation and the resulting corrective actions.

To initiate improved tracking and reporting process, the Long Term Home Health Care Program (LTHHCP) DSS Quarterly Report was issued effective April 1, 2009 via GIS 09 OLTC/002. The data collected and reported by district staff in the Report is used by NYSDOH for monitoring and analyzing trends, and identifying quality improvement issues in compliance with CMS QA requirements. See Attachment IV for the Quarterly Report form and instructions for completion.

**G. NOTICES OF DECISION (NOD)**

The LDSS remains responsible for issuing notices of decision, also known as client notices, used under the LTHHCP waiver. This includes the recently developed AHCP notices distributed in 09 OLTC ADM 01.

Use of LTHHCP NOD forms is mandated. All LTHHCP and AHCP NOD forms are currently posted to the intranet Library of Official Documents for use. The forms are available for download at <http://health.state.nyenet/revlibrary2.htm> or from CentraPort, by selecting Medicaid from functional areas and then going to ADM listing.

**V. SYSTEMS IMPLICATIONS**

LDSS functions related to updating and maintaining systems files are critical to the effectiveness of the waiver, helping to facilitate participants' initial access to waiver services, and further continuity of care.

The Restricted Recipient Exception Code for LTHHCP waiver participants is 30 (R/E Code 30). Upon authorization for waiver participation, LDSS staff **must** enter this R/E code into the WMS system. Only upon the LDSS determination that the participant is no longer financially or programmatically eligible for participation will LDSS staff need to make any changes to this file.

**VI. EFFECTIVE DATE**

This ADM is effective April 1, 2011.



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Mark Kissinger, Deputy Commissioner  
Office of Long Term Care