



STATE OF NEW YORK DEPARTMENT OF HEALTH

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TRANSMITTAL: 98 OCC/ADM-1

TO: Commissioners of
Social Services

DIVISION: Office of
Continuing
Care

DATE: September 4, 1998

SUBJECT: Limited Licensed Home Care Services Agencies (LLHCSAs)

**SUGGESTED
DISTRIBUTION:**

Home Care Services Staff
Medical Assistance Staff
Adult Services Staff
Director of Social Services
Staff Development Coordinators

**CONTACT
PERSON:**

Margaret O. Willard, Bureau of Home Care Services & Waivers, on issues pertaining to LLHCSA/MA Home Care; Cathleen Doyle, Office of Housing and Adult Services on issues pertaining to Adult Homes and Enriched Housing Programs by telephoning 518-474-5271 or 518-432-2404, respectively.

ATTACHMENTS:

Attachment A: Guidelines for Service Responsibility
Attachment B: Notice Letters: 1-4
Attachment C: LLHCSA Rates and Rate Codes
Attachment D: Model Contract

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
92 ADM-15		505.14	SSL 367-p		
92 ADM-49		505.35			

I. PURPOSE

The purpose of this administrative directive is to explain policies and procedures social services districts must follow in the authorization or reauthorization of Title XIX funded home care services provided by limited licensed home care services agencies (LLHCSAs). These policies and procedures are required by Section 367-p of the Social Services Law, as added by Section 105-d of Chapter 81 of the Laws of 1995 and extended by the addition of Chapter 43 of the Laws of 1997.

II. BACKGROUND

The desire to prevent premature and costly institutionalization of individuals who have minimal health care needs or who no longer wish to, or are unable to safely remain in their own homes, has prompted the State to consider cost-effective and appropriate alternative placement and health care service delivery options.

One option presently available to the individuals described above is adult care facility residential services in combination with the provision of Title XIX (Medicaid) home care services. Certified Home Health Agencies (CHHAs), Long Term Home Health Care Programs (LTHHCPs) and Licensed Home Care Services Agencies (LHCSAs) have traditionally been the providers of Medicaid funded home care services to adult care facility (ACF) residents.

ACF operators have maintained that Medical Assistance (MA) home care services provided directly to the residents by the ACF, would offer a cost-effective alternative to traditional delivery systems. Consequently, in June of 1995 the Legislature enacted Section 3602 and 3605 of the Public Health Law (PHL), and Section 367-p of the Social Services Law (SSL) to create the establishment of a new home care services provider type, Limited Licensed Home Care Services Agency (LLHCSA).

Home care services delivered in an adult care facility by a LLHCSA should be viewed as an efficiency in the district's long term care assessment and management process and, when appropriate, should be incorporated into a patient's plan of care.

III. PROGRAM IMPLICATIONS

The establishment of LLHCSAs will provide social services districts with an appropriate and cost-effective means for providing certain home care services to MA recipients in qualified adult homes(AH) and enriched housing programs(EHP). Appropriate use of the LLHCSA will offer social services

districts(SSD) a new provider type for service provision within New York State's long term care continuum. The AH or EHP, as the provider of home care services, will have the ability to manage the care of the ACF residents more efficiently by assuming responsibility for the home care needs of the individual. This efficiency will also result in cost savings to the SSDs since statute requires that the LLHCSA personal care services and nursing rates be significantly less than other home care provider fee-for-service rates presently available for use by districts.

IV. REQUIRED ACTION

To comply with the provisions of SSL Section 367-p, the policies and procedures contained in this directive must be followed in the prior authorization of home care services provided by the LLHCSAs.

A. Definition and Scope of a Limited Licensed Home Care Services Agency (LLHCSA)

A LLHCSA is an operator of an adult home or enriched housing program certified and licensed by the Department of Health for the purpose of providing solely to eligible residents:

- personal care services and related nursing supervision which are not the responsibility of the facility (Attachment A which is contained in 92 ADM-15, Provision of Title XIX Home Care Services in Adult Care Facilities, clarifies the responsibility of the facility); and/or
- application of sterile dressings by a registered professional nurse; and/or
- intramuscular and subcutaneous injections by a registered professional nurse; and
- all other related nursing tasks associated with the administration of intramuscular and subcutaneous injections or application of sterile dressings.

In order to be eligible to provide home care services to its residents, the LLHCSA must have a contract for the provision of LLHCSA services with the SSD, or State entity if appropriate, in which the AH or EHP is located as described in Section F. of this directive.

AHs and EHPs which are LLHCSAs and which have a contract with the SSD may provide services to individuals who:

- require personal care services and specific nursing tasks beyond that which are required to be provided by an adult care facility;
- have a stable medical condition; and,

- are able, with direction, to take sufficient action to assure self-preservation in an emergency.

AHs and EHPs cannot retain residents who exceed ACF retention standards unless:

- the AH or EHP has a Department approved Retention Standards Waiver; or
- the AH or EHP is actively seeking appropriate placement for the resident.

With the exception of these two circumstances, residents inappropriate for retention in an AH or EHP and for whom the LLHCSA services should not be authorized are those who:

- require continual nursing or medical care;
- are chronically bed or chairfast and unable to transfer or chronically requires the physical assistance of another person to transfer, walk or climb or descend stairs unless assignment on a floor with ground level egress can be made;
- are cognitively, physically or medically impaired to a degree that their safety or the safety of others would be endangered.

Services provided by a LLHCSA are limited to MA eligible recipients. However, it is possible that varying financial arrangements could be involved for a recipient residing in an AH or EHP. For instance the recipient may:

- o qualify categorically for MA/SSI which will provide full MA eligibility; or
- o qualify as a private pay admission to a Level II facility and be MA eligible with a spenddown.

The adult home or enriched housing program may not charge more than the SSI Congregate Care Level II rate for the basic residential services to a resident in receipt of MA funded home care services through the LLHCSA.

B. Criteria and Procedures for Authorization of Title XIX Home Care Services Provided by a LLHCSA

1. If a MA eligible AH or EHP resident is identified as being appropriate for Title XIX personal care services and/or requires application of sterile dressings, and/or subcutaneous or intramuscular injections, a referral should be sent to the social services district in which the MA recipient/ACF resident is located. This referral may include a copy of a district approved physician's order for home care services.
2. The SSD will make arrangements for the completion of an initial assessment for home care services in accordance with 505.14. The

assessment must include: a completed physician's order; a nursing/social/fiscal assessment presently used by the district in the assessment of Title XIX personal care services and completed by a registered professional nurse employed by the SSD or employed by a CHHA or LHCSA under contract to the SSD, and; a completed plan of care which should delineate the level, amount, frequency and duration of service required by the individual. The combination of information will allow the district to clearly determine the recipient's care needs.

NOTE: Fiscal assessments must be completed on all recipients expected to receive more than 60 days of LLHCSA services. The district should follow fiscal assessment policies and procedures contained in 92 ADM-49, Fiscal Assessment and Management of Personal Care Services, and complete the fiscal assessment worksheet (Attachment 5 in 92 ADM-49) by utilizing the rate information contained in Attachment C. Districts will need to multiply the quarter hour rate by four (4) to derive a hourly rate.

3. The SSD will make a determination of the individual's appropriateness for services in accordance with 505.14 (a) based upon a review of the assessment of need determined by the assessors. This review should:
 - determine consistency between M.D. Orders, the DMS-1 or a PCSP Department approved local equivalent, and assessments;
 - determine the needs of the client that may or may not be currently addressed;
 - include reviewing the Plan of Care and the provider's ability to meet the unmet needs of the client as indicated by the assessments; and
 - determine cost effectiveness of the proposed service delivery package when compared to other available service alternatives and funding sources, i.e. Nursing home placement/Medicare.

4. If the SSD in which the recipient and AH or EHP are located has made a determination on the appropriateness of Title XIX home care services, the district will notify the individual regarding their decision within 10 working days of the district's receipt of the complete and accurate assessment documentation. The district will, after determining whether the recipient is appropriate for the requested services and whether the LLHCSA is the most cost effective means for providing the services, issue an authorization/denial letter to the recipient. If it is determined that services can appropriately and cost effectively be provided by the LLHCSA, the district should send a notice letter, with fair hearing information, (Attachment B-1 or B-3) to the recipient.

NOTE: There are two New York City (B-1 and B-2) and two Upstate (B-3 and B-4) notices. The Upstate and NYC notices differ in the Right To A Fair Hearing information located on the back side of the notice (page 2 of the attachment).

5. If the district has determined that the LLHCSA will provide the required Title XIX home care services, the SSD will enter the prior authorization for the home care services on the Medicaid Management Information System (MMIS) utilizing procedures outlined in the Limited Licensed Home Care Services Agency (LLHCSA) Provider Manual and forward a copy of the prior approval to the LLHCSA. Category of Service will be 0264. Regional rates for both the PCS and nursing tasks will be in quarter hour increments by Region as indicated in Attachment C. Services will be authorized for a maximum of six months. If the district where the LLHCSA is operating has Department approval for use of annual authorizations, LLHCSA services may be prior authorized for twelve months.

C. Reassessment/Reauthorization Procedures

At a minimum, the district must reassess the individual's continued appropriateness for home care services provided by a LLHCSA every six months unless the district is in receipt of an approval of annual authorization by the Department. If the individual's condition changes during the assessment period, the SSD should be contacted and, if appropriate, arrange for a new assessment to be conducted. Upon completion of the reassessment, the district may either reauthorize, discontinue, increase or decrease services.

Note: Occasionally a district may authorize a LLHCSA to provide a recipient solely with sterile dressing changes. If the recipient's condition is expected to improve over a period of weeks, the district may wish to complete a more time limited prior authorization, i.e. 8 weeks, and then reassess the patient's continued need for service before prior authorizing additional services. A district may also prior authorize a LLHCSA's delivery of sterile dressing changes and/or injection of subcutaneous and/or intramuscular medications in combination with personal care services. When nursing services are prior authorized for the provision of both sterile dressing changes and subcutaneous and/or intramuscular injections and personal care services, and the recipient's condition requiring the provision of nursing services improves so that the nursing task is no longer indicated, the district may adjust the LLHCSA's prior authorization of nursing services without conducting a complete new assessment. However, the district must send a copy of the adjusted prior authorization of service to the LLHCSA and a notice to the MA recipient identifying that his/her service authorization has been decreased because the recipient no longer requires the nursing task be completed. If the recipient's condition requiring the nursing services deteriorates so that an increase in nursing services is required, a complete reassessment must be completed.

D. Fair Hearings

The district must follow timely notice rules. This means that if the district discontinues or decreases services, the client is entitled to a notice 10 days prior to the effective date of the action. A Fair Hearing notice will be forwarded to the recipient by the district of fiscal responsibility when home care services are authorized/reauthorized,

increased, denied, discontinued, or decreased. The district should use the appropriate form included as Attachment B 1-4 for notification purposes. SSDs must photocopy this notice and issue it as a two-sided notice, not a two-paged notice. In those instances when the district has made a determination to deliver services using a provider other than the LLHCSA, the district should use the appropriate notice associated with that service and make arrangements for the provision of services through other provider sources.

E. Termination of Home Care Services Provided by the LLHCSA

If it is determined that the MA recipient is no longer appropriate for the home care services being provided by the LLHCSA or does not meet the adult care facility (ACF) retention standards, procedures must be initiated by the ACF in accordance with 18 NYCRR Part 487.4 (k)(1)(2)(i-iv) for an AH and 488.4 (b) and (g) for an EHP to obtain the appropriate level of care for the individual. Until the appropriate level of care is obtained, the ACF is responsible for continuing to complete appropriate service referrals and to meet the needs of the resident. This may include the interim provision of home care services by the LLHCSA and/or other home care service providers. The ACF, in conjunction with the SSD, is under obligation to make diligent effort to obtain appropriate services or level of care for the resident/recipient.

F. Contracts

A contract must be executed between the LLHCSA and the SSD in which the LLHCSA is operating. The contract establishes the role of the LLHCSA as a provider of Title XIX home care services. The contract, included as Attachment D, should be used by the SSD when contracting for personal care services and nursing tasks provided by the LLHCSA. SSDs may add additional local requirements to the model contract.

G. Rates and Reimbursement

The home care services provided by the LLHCSA are paid through the district's prior authorization system utilizing rates established by the Department. Services covered under the MA LLHCSA rates and for which **no additional separate billing** may be made include the following:

- personal care services including related nursing supervision which are not the responsibility of the AH or EHP operator;
- a registered professional nurse's visit for the application of sterile dressings and associated nursing tasks;
- a registered professional nurse's visit for injection of intramuscular and subcutaneous injections and associated nursing tasks;

The district should obtain from the provider a copy of the AH or EHP

operator's DOH LLHCSA license and MMIS provider ID number prior to authorizing services. Payment for the MA home care services provided to a recipient by a LLHCSA will be authorized by the SSD on MMIS. The district should include the primary diagnosis and ICDM-9 code on the N.Y.S. Medical Assistance (Title XIX) Program Order/Prior Approval Request - Personal Care, DSS 2832-H. The rate codes and corresponding reimbursement rates to be used when prior authorizing MA home care services provided by a LLHCSA for an AH or EHP resident are affixed as Attachment C. Changes to the reimbursement rates will be forwarded to the SSDs and the LLHCSAs by the Department.

Payment may only be made for services rendered. Consequently, no payment for MA funded home care services may be made to the LLHSCA when the recipient is receiving residential health care facility services or inpatient hospital services or is otherwise absent from the facility. Districts may not authorize services through a LLHCSA which duplicates services provided to the recipient through other MA funded programs, i.e., the Long Term Home Health Care Program (LTHHCP), Hospice, Adult Day Care Health Care Programs (ADHCP) or the Assisted Living Program (ALP). The SSD may not authorize services through the LLHCSA which duplicates services reimbursed through a third party insurer. MA is the payor of last resort.

The Department anticipates conducting retroactive reviews of service utilization by MA recipients residing in AHs and EHPs and in receipt of LLHCSA services.

V. Systems Implications

The prior approval system presently utilized for prior authorization of the Title XIX Personal Care Services Program will be used to authorize payment for MA funded home care services in the LLHCSA.

The district will utilize the prior approval numbers provided by the Department for the PCSP. The district may wish to dedicate an allotment of these numbers for AH and EHP residents receiving MA home care services through a LLHCSA.

VI. Effective Dates

Local districts may immediately implement the contract requirements for LLHCSA services. **The district, however, may not prior authorize LLHCSA services until further notice from the Department.**

Robert W. Barnett
Director
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