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GENERAL INFORMATION SYSTEM

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DIVISION: Office of Medicaid Management

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TO: Local District Commissioners, Medicaid Directors

FROM: Betty Rice, Director, Division of Consumer & Local District Relations

SUBJECT: New Long Term Home Care Program Fair Hearing Procedures

EFFECTIVE DATE: Immediately

CONTACT PERSON: Marge Rokjer (518)474-6580

BERNARD/SIMMONS GIS

This is to advise you of new fair hearing procedures for the Long Term Home Health Care Program ("LTHHCP") that social services districts must implement. The new procedures are being implemented as part of the settlement of related litigation (Simmons v. DeBuono, Bernard v. Novello).

The following new procedures are in effect:

1) LTHHCP recipients are entitled to fair hearing rights when the number of hours of Medicaid funded personal care services or home health aide services previously authorized under their care plans are reduced, discontinued or are inadequate contrary to their treating physicians' orders; and when Medicaid funded physical therapy services previously authorized under their care plans are reduced or discontinued contrary to their treating physicians' orders.

2) LTHHCP recipients are entitled to fair hearing rights when Medicaid funded personal care services and home health aide services are denied contrary to their treating physicians' orders.

3) LTHHCP recipients are entitled to fair hearings under 18 NYCRR § 358-3.1(b)(6) to review the adequacy of their Medicaid funded personal care services, home health aide services or physical therapy services.

The Department will issue an administrative directive providing further information regarding these new fair hearing procedures applicable to LTHHCP recipients. Fair hearing notices have been prepared for use by district staff. Districts must photocopy these fair hearing notices on legal sized paper and issue them as two sided notices. These notices must be reproduced locally without any modifications until they are printed and available from

the warehouse. Please share this information with all district staff responsible for the oversight of the LTHHCP. In addition, this message must be distributed immediately to all LTHHCP providers. If you have any suggested modifications to these notices before they are printed, please share them with us by November 15, 2001. Questions regarding these new procedures may be addressed to Marge Rokjer at (518) 474-6580 or via e-mail at MAR10@health.state.ny.us.