



# STATE OF NEW YORK DEPARTMENT OF HEALTH

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<b>ADMINISTRATIVE DIRECTIVE</b>
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**TRANSMITTAL:** 08 OLTC/ADM-1

**TO:** Commissioners of  
Social Services

**DIVISION:** Office of Long Term Care  
Department of Health

**DATE:** April 28, 2008

**SUBJECT:** Nursing Home Transition and Diversion Home and Community-Based  
Services Waiver

**SUGGESTED  
DISTRIBUTION:**

Medicaid Staff  
Home Care Services Staff  
Adult Services Staff  
Director of Social Services  
Family-Type Home Coordinators  
Staff Development Coordinators  
Fair Hearing Staff

**CONTACT  
PERSON:**

Eligibility Questions:  
Local District Support Unit  
Upstate: (518) 474-8887  
NYC: (212) 417-4500

Waiver Questions:  
NHTD Waiver Management Unit  
(518)486-3154

**ATTACHMENTS:**

See Appendix I for Listing of Attachments

**FILING REFERENCES**

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
GIS 08 MA/002 GIS 07 MA/025 GIS 07 MA/018 GIS 06 OMM/ADM-5 GIS 04 OMM/ADM-6 01 LCM-3 94 ADM-9		360-6.6(a) 485-490	10 NYCRR Part 790-794  10 NYCRR Sec. 86 366-c(4) of the SSL		DAS Facility Info. Letter 22 Fac. Dir. 3-90 & 6-91

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**I. PURPOSE**

This Administrative Directive (ADM) describes the purpose and structure of the Nursing Home Transition and Diversion (NHTD) Home and Community Based Services (HCBS) Medicaid waiver and provides Local Departments of Social Services (LDSS) with information about the waiver's relationship to programs and services administered by the LDSS. It also identifies the LDSS' responsibilities under the waiver.

**II. BACKGROUND**

Social Services Law Section 366 (6-a) authorized the Commissioner of Health to apply to the Centers for Medicare and Medicaid Services (CMS) for a Home and Community Based Services (HCBS) Medicaid waiver to provide another community-based alternative to Medicaid eligible seniors and individuals with disabilities who are at least eighteen years of age and meet the nursing home level of care. The State Department of Health (DOH) has obtained CMS approval of the waiver, as well as Office of State Comptroller approval of the contracts necessary to support regional administrative functions (noted in III. A. below).

**III. PROGRAM IMPLICATIONS**

**A. Key Program Contacts**

The DOH, Office of Long Term Care (OLTC) will oversee the waiver in the NHTD Waiver Management Unit. The LDSS staff will have the most contact with staff from this Unit, as well as the following DOH contracted agencies.

The Department has contracted with nine (9) not-for-profit agencies to serve as Regional Resource Development Centers (RRDCs) across the State (refer to Attachment I for a map of the RRDC regions) to assist with administration of the waiver. These 9 agencies contracted with DOH as RRDCs cannot provide any NHTD waiver services. The RRDCs must employ a Regional Resource Development Specialist (RRDS) as lead staff. One of the responsibilities of the RRDSs includes the provision of information to the applicant regarding the application process, available waiver services and participant choice. They are also responsible for determining the individual's non-financial waiver eligibility. The RRDSs are available to discuss general programmatic issues as well as referrals to the NHTD waiver with LDSS staff.

The RRDSs must provide applicants with a list of service coordination agencies from which to select a Service Coordinator. The Service Coordinators will assist applicants with developing a Service Plan, which is a critical part of the application. Service Coordinators are the primary people to discuss recipient specific issues with LDSS staff, and are employees of agencies enrolled with eMedNY to provide service coordination.

Each RRDC must employ a Nurse Evaluator (NE). The NE will evaluate the health status of waiver applicants and participants, as necessary, to assist the RRDS and Service Coordinator in the development of the waiver Service Plan that meets the individual's health care needs. In addition, the Nurse Evaluator may become involved when there are concerns regarding the outcome of the PRI/SCREEN used under the NHTD waiver to assess for level of care.

DOH has also contracted for Quality Management Specialists (QMS) in three QMS regions within the State (Refer to Attachment II for a map of the QMS regions). The QMSs will be responsible for administering the Quality Management Program in the NHTD waiver to ensure the delivery of high quality services to participants.

**B. Participant Eligibility**

An individual participating in the NHTD waiver must be:

- Assessed to be eligible for nursing home level of care, using the Patient Review Instrument (PRI)(DOH-694) and SCREEN (DOH-695), which will be done by a certified assessor who can conduct a PRI/SCREEN;
- In receipt of Medicaid coverage for Community Based Long Term Care services, with or without a spenddown requirement;
- Capable of living in the community with the assistance of available informal supports, Medicaid State Plan services and one or more waiver service;
- At least eighteen years of age with a physical disability or aged 65 and older; and
- Part of an aggregate group that can be cared for at less cost in the community than in a nursing home.

The NHTD waiver is projected to serve 1,000 individuals in its first year, 1,500 the second year, and 2,500 the third, for a total of 5,000 individuals statewide over the initial three year approval period of the waiver.

An individual cannot be enrolled in the NHTD waiver and any of the other HCBS waivers at the same time (i.e. the Long Term Home Health Care Program waiver, the Traumatic Brain Injury waiver, and the Office of Mental Retardation and Developmental Disabilities HCBS waiver). Nor can an individual be enrolled in NHTD and Program of All Inclusive Care of the Elderly (PACE) or Managed Long Term Care at the same time. If an individual is determined to be eligible for more than one waiver, a choice between the NHTD waiver and other HCBS waivers must be made by the applicant and/or legal guardian.

**C. Waiver Services**

Participants in the NHTD waiver are eligible to receive one or more waiver services that have been developed to assure health and welfare and provide support for living in the community. Waiver services are used when available unpaid or paid supports and services are not sufficient for the individual to live safely in the community. Participation in the waiver with the use of waiver services may also be considered in situations where waiver services prove to be more efficient and cost effective than Medicaid State Plan services. An individual must be in receipt of at least one waiver service to be on the waiver.

NHTD waiver services include:

- Service Coordination
- Assistive Technology
- Community Integration Counseling
- Community Transitional Services
- Congregate and Home Delivered Meals
- Environmental Modifications Services
- Home and Community Support Services

Home Visits by Medical Personnel  
Independent Living Skills Training Services  
Moving Assistance  
Nutritional Counseling/Educational Services  
Peer Mentoring  
Positive Behavioral Interventions and Supports  
Respiratory Therapy  
Respite Services  
Structured Day Program Services  
Wellness Counseling Service

Definitions of these waiver services are provided in Attachment III.

**D. Cost Neutrality**

DOH must assure the cost neutrality of the NHTD waiver. This means the actual total expenditures for NHTD waiver services and other Medicaid services provided to all waiver participants will not, in any waiver year, exceed 100 percent of the amount that would be incurred in the absence of the waiver by the State's Medicaid program for these individuals in the nursing home.

This will be determined on a regional basis, aggregating the costs of all individuals in a region and comparing those to a regional cap assigned by DOH. This method provides the opportunity to serve many people with a wide range of needs. The RRDSs have responsibility for managing cost neutrality in their regions.

**IV. REQUIRED ACTION**

**A. Medicaid Eligibility Determination**

Financial eligibility for Medicaid coverage for participation in the NHTD waiver is determined by the LDSS. Such determination is made while an individual is residing either in a nursing home or in the community. Individuals who request Medicaid coverage of NHTD waiver services must provide proof of current income and resources and be otherwise eligible for Medicaid.

**1. Treatment of Income and Resources for Spousal Impoverishment Waiver Cases**

Certain NHTD waiver applicants are entitled to have their Medicaid eligibility determined in accordance with Spousal Impoverishment provisions. Spousal budgeting is used in instances where the waiver participant is married to an individual (community spouse) who is not:

- in receipt of any home and community-based waiver services, including the NHTD waiver; or
- expected to remain in a medical institution or nursing home for at least 30 consecutive days; or
- in receipt of, or expected to receive, a combination of services described in the first and second bullets, as noted above, for at least 30 consecutive days.

a. Income

The total net income of the waiver applicant is calculated using only the waiver applicant's income and applying all applicable SSI-related income disregards and comparing the resulting figure to the Medicaid income level for one (\$725

for 2008)(MBL Budget Type 04, Case Count of one). Income of the community spouse is not considered available for purposes of determining the waiver applicant's Medicaid eligibility. In addition, income of the NHTD waiver spouse may NOT be used to bring the community spouse's income up to the minimum monthly maintenance needs allowance (MMMNA), \$2,610 for 2008.

b. Resources

The community spouse of a NHTD waiver applicant IS entitled to a community spouse resource allowance (up to a maximum of \$104,400 for 2008). After providing for a community spouse resource allowance, any remaining resources are considered available to the waiver applicant. The waiver applicant is allowed the Medicaid resource level for one (\$4,350 for 2008).

**2. Treatment of Income and Resources for Single Individuals and Married Waiver Applicants who are not Eligible for Spousal Impoverishment Budgeting**

Medicaid eligibility for single NHTD waiver applicants and married individuals who are not eligible for Spousal Budgeting is determined using community budgeting rules.

NOTE: All waiver applicants are subject to the \$750,000 home equity limit as described in 06 OMM/ADM-5, "Deficit Reduction Act of 2005 - Long Term Care Medicaid Eligibility."

**3. Monthly Income Spenddown Requirement**

Individuals whose net monthly income exceeds the Medicaid income level may be eligible for Medicaid by spending down to the appropriate Medically Needy Income Level. A participant who is determined to be eligible for Medicaid with a monthly spenddown may use paid or incurred bills to meet his/her spenddown, including NHTD waiver services. The LDSS may need to work with the applicant and/or applicant's authorized representative and/or legal guardian to determine which medical bills will be used to meet the spenddown amount.

**4. Transfer of Assets and Waiver Applicants**

As notified in General Information Systems (GIS) message 07 MA/018 "Transfer of Assets and Medicaid Waiver Applicants/Recipients", transfer of assets provisions do not apply to individuals applying for or receiving home and community-based waiver services. Therefore, individuals who apply for Medicaid coverage of NHTD waiver services are only required to provide documentation of their current resources. NHTD waiver applicants are not subject to a transfer look-back period nor are they subject to a transfer penalty period. Pending edit changes to Medicaid Coverage Codes 19 (Community Coverage With Community-Based Long Term-Care) and 21 (Outpatient Coverage With Community-Based Long-Term Care), districts must use Coverage Code 01 (Full Coverage) or 02 (Outpatient Only Coverage), as applicable. RVI (Resource Verification Indicator) 1 (Current Resources and Previous 36/60 Month) will be used pending future changes/instructions.

NOTE: Individuals cannot attest to the amount of their resources and qualify for NHTD waiver services.

**5. Notices**

The LDSS is responsible for providing all Notices of Decision regarding the applicant's Medicaid financial eligibility to the applicant. In addition, the LDSS must provide copies of Notices of Decision regarding the applicant's Medicaid financial eligibility to the RRDS.

As always, the LDSS remain responsible for providing a Notice of Decision regarding the participant's recertification for Medicaid coverage to the participant.

**B. Individual Waiver Enrollment Process**

**1. Letter of Introduction**

Some individuals interested in participating in the NHTD waiver will be applying for Medicaid coverage for Community-Based Long-Term Care.

The RRDSs will send a Letter of Introduction to the LDSSs for these individuals applying for the waiver (Refer to Attachment IV). The RRDSs will also give a copy of the letter to the individuals to bring with them when they meet with the LDSSs. Upon final determination of Medicaid coverage for Community-Based Long-Term Care, the LDSSs will determine financial eligibility and return the letter, along with the appropriate form(s) attached, to the applicant and RRDS.

**2. Provision of Medicaid State Plan Services with Waiver Services**

The RRDS and Service Coordinator must collaborate with LDSS staff to have an understanding of the applicant's history, if any, of participation in Medicaid State Plan community-based services or adult protective services. This collaboration furthers the RRDS and Service Coordinator's understanding of the strengths and needs of the applicant, as well as the availability of informal and formal supports. This knowledge and understanding will enhance the development of the waiver Service Plan and support the applicant's health and welfare if s/he is approved for the NHTD waiver.

The LDSS and/or State DOH retain responsibility for all prior authorizations/approvals of Medicaid State Plan services such as the Personal Care Services Program (PCSP), the Consumer Directed Personal Assistance Program (CDPAP), Personal Emergency Response Services (PERS) or private duty nursing (PDN). It is anticipated the RRDS/Service Coordinator will be in contact with LDSS home care staff when applicants require referrals for assessment and authorization of these services. LDSS home care staff may be asked to participate in team meetings, convened by waiver Service Coordinators, related to development or reassessment of the participant's waiver Service Plan.

- Example: Mrs. Smith is a waiver participant who receives 10 hours of prior authorized personal care services a month as well as the waiver service, Independent Living Skills Training (ILST). Her ILST services have been successful in minimizing her need for personal care services. As her waiver Service Plan is revised, her Service Coordinator will request a reassessment of Mrs.

Smith's personal care needs. If the LDSS assessment indicates the need for personal care services has decreased, the authorization for those services must be adjusted by the LDSS and the change must be reflected by the Service Coordinator in the waiver Service Plan. LDSS staff and NHTD waiver staff must send Mrs. Smith the appropriate fair hearing notices.

One of the waiver services available to the applicant/participant is the provision of Home and Community Support Services (HCSS). HCSS is an NHTD waiver service that provides discrete and/or oversight and supervision or a combination of discrete oversight and/or supervision as well as assistance with activities of daily living (ADLs) and/or instrumental activities of daily living (IADLs).

In the development of the waiver Service Plan, the Service Coordinator must identify whether the applicant/participant has unmet needs for discrete oversight and/or supervision. If, in addition to discrete oversight and/or supervision, the individual requires assistance with ADLs and/or IADLs, the waiver Service Plan will include HCSS to meet all those needs. The individual will receive discrete oversight and/or supervision and assistance with ADLs/IADLs through the waiver.

If an individual's personal care needs are being met through provision of HCSS under the waiver that individual cannot also receive LDSS prior authorized PCSP. This is true for both the traditional model of LDSS authorized personal care or the CDPAP model.

If the Service Coordinator or RRDS determines there is no need for discrete oversight and/or supervision, but identifies an unmet need for assistance with ADLs and/or IADLs, the waiver Service Coordinator must refer the applicant/participant to the LDSS for a PCSP assessment.

The RRDS/Service Coordinator may also identify that applicants/participants may require the provision of skilled tasks. These tasks are not included in the waiver service of HCSS. They are potentially provided to Medicaid consumers through Certified Home Health Agencies (CHHA), PDN or CDPAP. When service plans are developed in such cases, waiver Service Coordinators must use a team approach, including the RRDS, NE, and the Quality Management Specialist (QMS), to assure that resources such as CHHA and PDN have been explored prior to making a referral to the LDSS for a CDPAP assessment. This is to ensure that all available third party payors have been considered and assessed. In the absence of third party coverage, CDPAP may be used for the delivery of skilled services. For those applicants/participants who are interested in CDPAP for the provision of skilled services, the waiver Service Coordinator, along with the applicant/participant, will make the referral to the LDSS.

In any case involving a combination of HCSS and CDPAP for skilled services, the waiver Service Coordinator must clearly articulate in the waiver Service Plan the justification of the need for CDPAP and the task(s) CDPAP is providing to the participant.



- Example: Mrs. Jones, who is not self-directing, receives HCSS under the waiver and is also in need of assistance with insulin injections. While she has no informal supports available to assist with this skilled task during the work week, her daughter can administer the insulin injection on the weekend. To fill this need during the work week, Mrs. Jones and her family would like to consider CDPAP rather than private duty nursing or CHHA services, as she is concerned with coverage in her rural area. The Service Coordinator will work with Mrs. Jones, her daughter, and her physician to obtain the necessary physician's order and make a referral to the LDSS requesting an assessment for CDPAP. Mrs. Jones is authorized for CDPAP services 1 hour 5 days per week, and this will be documented in Mrs. Jones' waiver Service Plan; responsibilities of all providers will be clearly described to assure there is no duplication of services.

If an applicant/participant requires discrete oversight and/or supervision through HCSS, this is an indicator that the individual is unable to be self-directing and requires an appointed self-directing other to manage the CDPAP services. To avoid conflict of interest, the individual's HCSS worker cannot serve as the self-directing other; current NHTD waiver service providers, and/or NHTD contract staff (i.e. RRDS, NE and QMS) cannot serve as the self-directing other; and any individual associated with an agency delivering Medicaid reimbursed services to the participant cannot serve as the self-directing other.

A participant's needs may change over time, therefore, the Service Coordinator and LDSS staff should work cooperatively to assure appropriate services are provided in a coordinated and non-duplicative manner. Any changes or adjustments to the waiver Service Plan or state plan services must be followed by appropriate fair hearing notices to the participant and/or the self-directing other if indicated. Refer to the example below.

- Example: Mr. Bean is receiving personal care services. Through the Service Coordinator's frequent contact with Mr. Bean, a new potential need for discrete oversight and/or supervision is identified. The Service Coordinator must take steps to assess and identify a means of meeting this need. If there is a need for HCSS services, Mr. Bean's waiver Service Plan and his personal care aide authorization will need to be revised. The Service Coordinator must work collaboratively with LDSS as the needs for discrete oversight and/or supervision are evaluated and, if appropriate, coordinate the uninterrupted transition of services from personal care aide services to HCSS. This may result in the need for LDSS staff to change the applicant's/participant's personal care aide authorization.

### **3. The Role of the RRDS and Waiver Service Plan Approval**

The Regional Resource Development Specialist (RRDS) may receive a referral from an individual and/or legal guardian, LDSS, medical professional, discharge planner, advocate etc., regarding an individual's desire to explore the NHTD waiver as an option. The RRDS must meet with the individual and/or legal

guardian in the region where s/he chooses to reside or is currently living to provide information regarding the waiver. If the RRDS considers the individual's non-financial waiver eligibility to be potentially appropriate and the individual wishes to proceed with the application process, s/he must be provided with a list of Service Coordination agencies from which to choose a Service Coordinator and begin the application process.

As information is collected by the Service Coordinator for the development of the Service Plan, the Service Coordinator must identify whether services are needed through available informal supports, non-Medicaid local, State, or federally funded programs, Medicaid State Plan services and/or waiver services, looking at the efficiency of service utilization. This must be accomplished through collaboration with the LDSS when the Service Plan potentially includes Medicaid State Plan services or other services accessed through the LDSS. All of this information is used to develop a comprehensive Service Plan. NHTD waiver services are services of the last resort, unless the use of these services results in efficiencies in the Medicaid program.

The RRDS must review and either approve or deny the applicant's program waiver eligibility including the applicant's Initial Service Plan.

**4. New York State Department of Health Monitoring**

The Department of Health and its contracted entities, namely the Regional Resource Development Centers and Quality Management Specialists must actively monitor the quality and cost effectiveness of the waiver. This is accomplished through a wide range and variety of activities, starting with initial contact with the individual. DOH staff, along with the assistance of the Office of Medicaid Inspector General, will also survey providers to assure they are following their Provider Agreement and the policies and procedures outlined in the NHTD Program Manual. The Department will also have the assistance of the Office of Medicaid Inspector General to audit waiver providers. As per state law, the Department has the ability to impose restrictions as needed, including the suspension of a waiver provider's ability to accept new participants or termination of a waiver provider's ability to provide NHTD waiver services.

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

The Regional Resource Development Specialist (RRDS) is responsible for informing each applicant of the determination on the application for participation in the waiver. The RRDS must provide all non-financial Notices of Decision to the applicant/participant and/or legal guardian, with copies to DOH-NHTD Waiver Unit, the Service Coordinator, and to the LDSS (District of Fiscal Responsibility and, if different, the participant's district of residence) when appropriate.

**A. Authorization**

When initial participation in the waiver is approved, the RRDS must issue a "Notice of Decision-Authorization" (Refer to Attachment V) to the applicant and/or legal guardian, authorized representative, DOH-NHTD Waiver Program staff, Service Coordinator and the

applicant's LDSS (District of Fiscal Responsibility and, if different, district of residence), indicating authorization for waiver participation.

**B. Denial**

When an applicant is denied participation in the NHTD waiver due to reasons related to non financial reasons, the RRDS must issue a "Notice of Decision-Denial of Waiver Program" (Refer to Attachment VI) to the applicant and/or legal guardian, authorized representative, DOH-NHTD Waiver Program, and Service Coordinator and the applicant's LDSS (District of Fiscal Responsibility and, if different, district of residence), indicating denial of participation in the waiver.

**C. Discontinuance**

If the individual's participation in the waiver is discontinued due to loss of the waiver participant's financial eligibility for Medicaid, the LDSS must notify the recipient of the adverse decision on financial eligibility. The participant and/or legal guardian is responsible for providing this determination to the RRDS and/or Service Coordinator.

If participation in the NHTD waiver is discontinued due to participant choice, the RRDS will issue the "Notice of Intent to Discontinue from the Waiver Program", (Refer to Attachment VII) to the participant and/or legal guardian, authorized representative, DOH-NHTD Waiver Program, the Service Coordinator and the LDSS (District of Fiscal Responsibility and if different, the participant's county of residence.)

If participation in the NHTD waiver is discontinued due to non financial reasons, (e.g. individual no longer requires a nursing home level of care, cannot be safely maintained in the community does not have a current Service Plan, etc.) the RRDS will issue the "Notice of Intent to Discontinue from the Waiver Program", (Refer to Attachment VIII) to the participant and/or legal guardian, authorized representative, DOH-NHTD Waiver Unit, the Service Coordinator and the LDSS (District of Fiscal Responsibility and if different, the participant's county of residence.)

Upon the death of a participant, the RRDS will issue the "Notification of Death of a Waiver Participant to Local Department of Social Services", (Refer to Attachment IX) to DOH-NHTD Waiver Program, the Service Coordinator and the LDSS (District of Fiscal Responsibility and if different, the participant's county of residence) **only**.

**VI. SYSTEMS IMPLICATIONS**

The Restricted Recipient Exception Code for NHTD waiver participants is 60. Upon receipt of the "Notice of Decision - Authorization," LDSS staff must enter this code into the WMS system. Only upon the LDSS determination that the participant is no longer financially eligible, or the receipt of a NHTD "Notice of Discontinuance" sent by the RRDS for the region, will the LDSS need to make any changes to this file. We are also including the current instructions for input of code 60 into the WMS R/E Subsystem below:

**INSTRUCTIONS FOR INPUT OF RESTRICTION/EXCEPTION 60 - NHTD INTO THE WMS R/E SUBSYSTEM**

**1. ACCESSING THE RESTRICTION/EXCEPTION SUBSYSTEM**

- A. Access the Medical Assistance Menu by choosing selection "25" on the WMS Main Menu.
- B. Access the Restriction/Exception Subsystem by entering "R" on the Medical Assistance menu.
- C. Select the "Input" function by entering "I".
- D. Enter the client's CIN, Case Number and your worker I.D.
- E. Transmit.

**1. ENTRY OF THE RECIPIENT EXCEPTION CODE 60**

- A. Enter the R/E code 60 in the **RE/EXC TYPE** field.
- B. The **RE/EXC FROM DATE** is entered equal to the first day the client is in "Exception Code 60" status. This is the first day the client is receiving NHTD service.
- C. Transmit the information and review for accuracy.
- D. Store the accurate data using (S) F 13.

**1. DEACTIVATION OF AN ERRONEOUS ENTRY**

(This removes an incorrect entry when a R/E 60 has been entered with an incorrect FROM DATE and the FROM DATE needs to be backdated, when the R/E has been added to the wrong client's case record, or when an incorrect Exception Code or Provider Number has been added to the client's case record.)

- A. Access the R/E Subsystem (See # 1 above)
- B. Enter the **RE/EXC TYPE** of the deactivation (60).
- C. Enter the **RE/EXC PERIOD THRU DATE** equal to the **RE/EXC FROM DATE** you wish to deactivate.
- D. Review the input for accuracy and Transmit. (The line showing the R/E 60 should have an **RE/EXC FROM DATE** and an **RE/EXC PERIOD THRU DATE** that are the same date.)
- E. Store the data using (S) F13. (This should make the R/E 60 line completely disappear.)

**If you are re-entering a R/E 60, let one day pass before you do the new R/E 60 data entry.**

**1. TERMINATION OF A RESTRICTION/EXCEPTION**

(Use this to end date an existing R/E 60.)

- A. Access the **RE/EXC** Subsystem Input Screen. (See #1 above)
- B. Enter the **RESTRICTION TYPE**, and the termination date in the **RE/EXC PERIOD THRU DATE** field.
- C. Review and transmit the data.
- D. Store the accurate data using (S) F 13.

VII. EFFECTIVE DATE

This ADM is effective April 1, 2008.

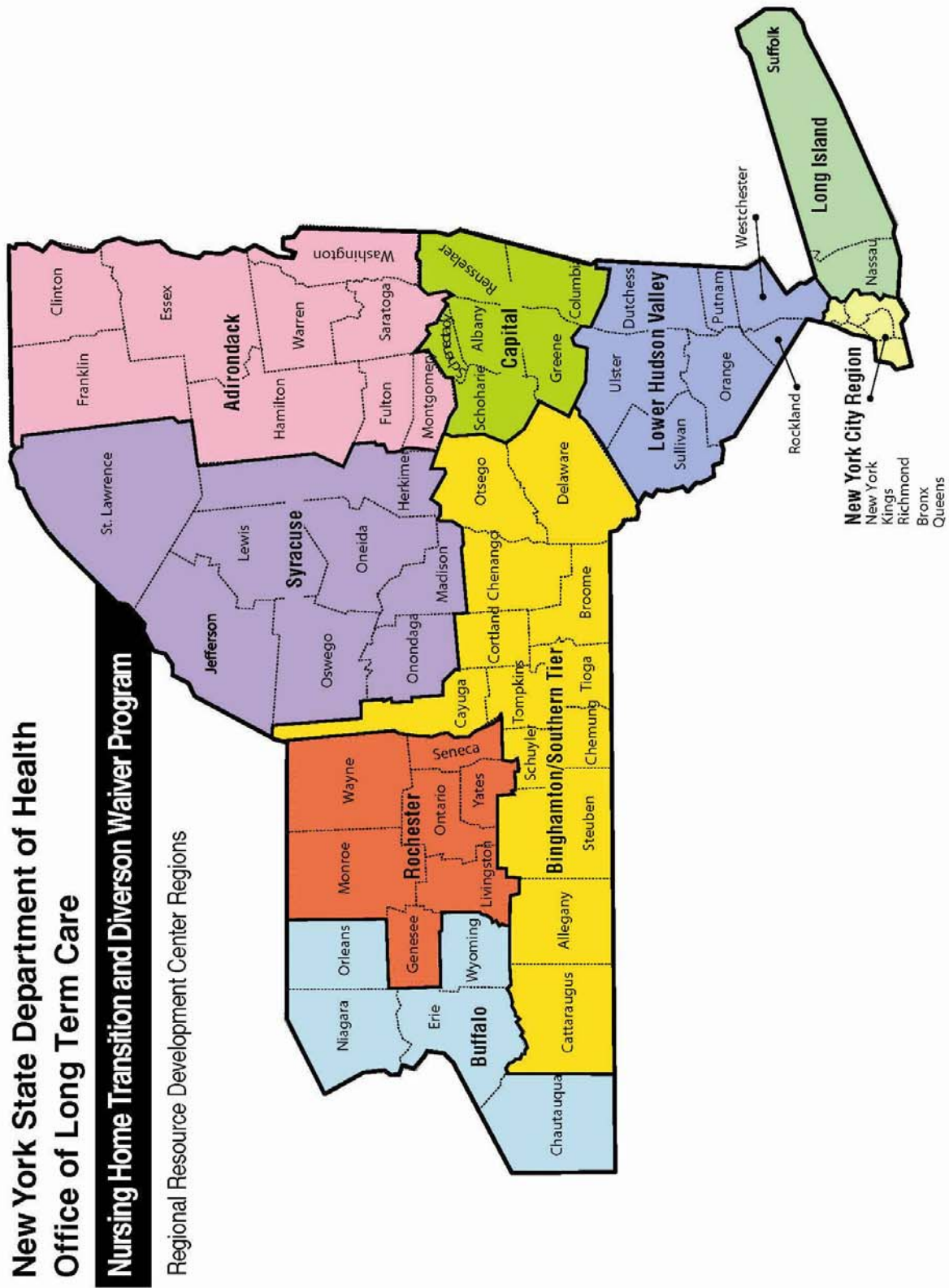
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Mark Kissinger, Deputy Commissioner  
Office of Long Term Care

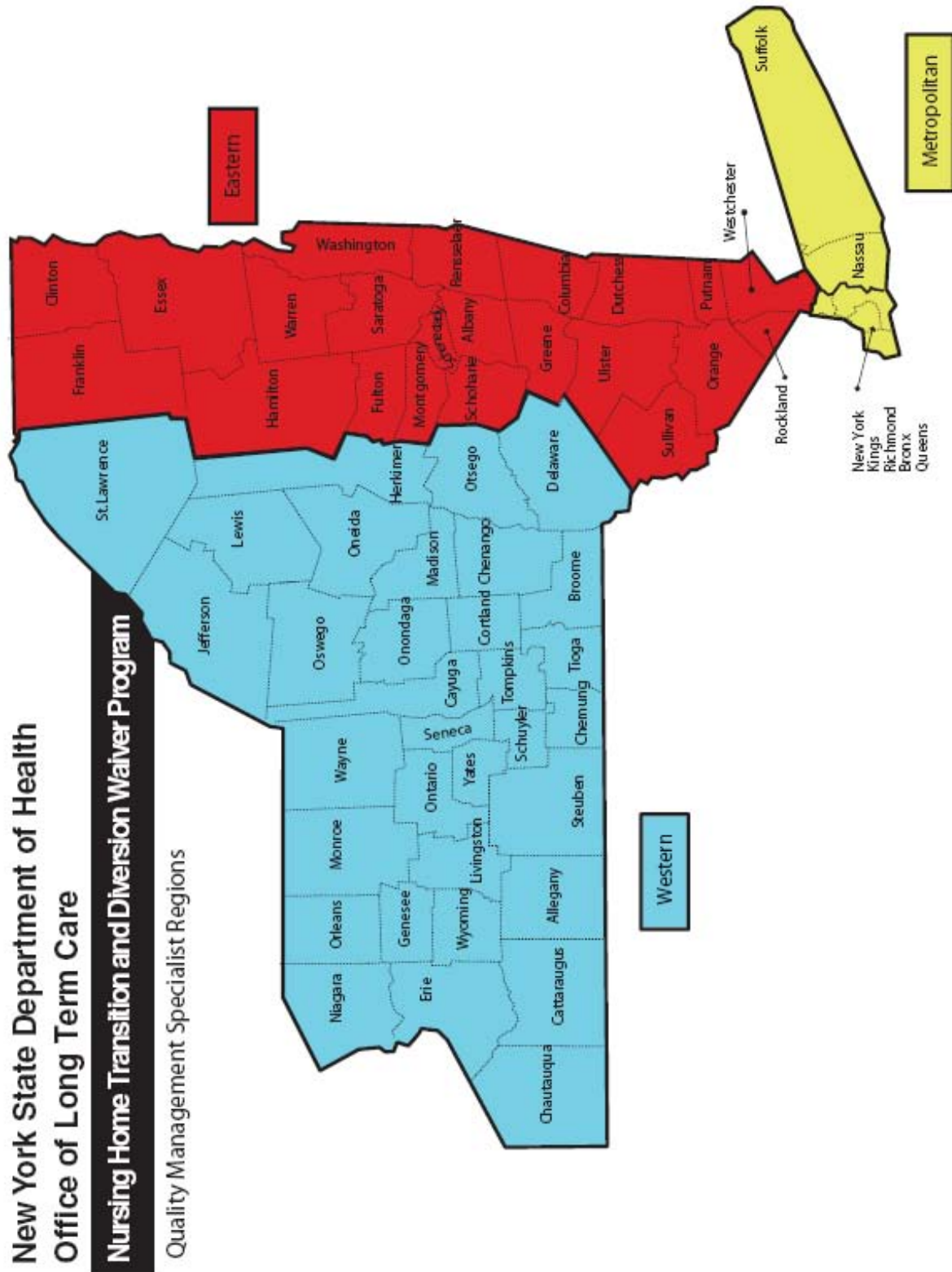
LISTING OF ATTACHMENTS

- Attachment I: Map of the RRDC Regions
- Attachment II: Map of the QMS Regions
- Attachment III: Definition of Waiver Services
- Attachment IV: Letter of Introduction
- Attachment V: Notice of Decision-Authorization
- Attachment VI: Notice of Decision-Denial of Waiver Program
- Attachment VII: Notice of Intent to Discontinue from the Waiver Program
- Attachment VIII: Notice of Intent to Discontinue from the Waiver Program
- Attachment IX: Notification of Death of a Waiver Participant to Local Department of Social Services

MAP OF THE RRDC REGIONS



MAP OF THE QMS  
REGIONS





## DEFINITIONS OF WAIVER SERVICES

**Service Coordination** - Assistance with the development and implementation of a person-centered individualized Service Plan that will lead to the waiver participant's independence, integration into the community, health and welfare.

**Assistive Technology** - Equipment that will improve the participant's independence, decrease reliance on staff and be a cost effective aid for community integration. This service supplements Durable Medical Equipment provided through the general Medicaid program.

**Community Integration Counseling** - Counseling service provided to waiver participants who are coping with altered abilities and skills, revisions in long term expectations, and/or changes in their roles in relation to significant others.

**Community Transitional Services** - Assistance in transitioning from a nursing home back to the community, including the cost of moving, essential furnishings, deposits for utilities, security deposits or one-time cleaning services prior to occupancy.

**Congregate and Home Delivered Meals** - Meals for waiver participants who cannot prepare or obtain nutritionally adequate meals for themselves, or when the provision of such meals will decrease the need for more costly supports to provide in-home meal preparation.

**Environmental Modifications Services** - Internal and external physical adaptations to the home necessary to assure the waiver participant's health and welfare in that setting. Environmental Modifications may be made to a residence owned by the participant or to rental units with permission received from the landlord.

**Home and Community Support Services** - Oversight and/or supervision as a discrete service or in combination with assistance with activities of daily living (ADL) and instrumental activities of daily living (IADL).

**Home Visits by Medical Personnel** - Services provided by a physician, nurse practitioner, or physician assistant to diagnosis, treat and monitor wellness to preserve the waiver participant's functional capacity to remain at home. An evaluation of the caretaker's ability to maintain his/her role is conducted, as well as an assessment of the living environment to identify if it can support the participant's medical needs.

**Independent Living Skills Training Services** - Training to improve or maintain the waiver participant's ability to live as independently as possible by focusing on essential community living skills such as task completion, money management, interpersonal skills, sensory/motor skills, problem solving skills and the ability to maintain a household.

**Moving Assistance** - Transport of the participant's possessions and furnishings when moving from an inadequate or unsafe housing situation or to a location where more informal supports will be available.

**Nutritional Counseling/Educational Services** - Assessment, planning, education and counseling for the waiver participant's nutritional needs and eating patterns.

**Peer Mentoring** - Improvement of the waiver participant's self-sufficiency, self-reliance, and ability to access needed services, goods and opportunities in the community accomplished through education, teaching, instruction, information sharing, and self-advocacy training, provided by a "peer" (with similar disabilities).

**Positive Behavioral Interventions and Supports** - Services intended to decrease the frequency or intensity of the waiver participant's significant behavioral difficulties that may jeopardize his/her ability to remain in the community of choice due to inappropriate responses to events in his/her environment.

**Respiratory Therapy** - Services providing preventative, maintenance and rehabilitative airway-related techniques and procedures to the waiver participant in his/her home.

**Respite Services** - Relief for non-paid primary caregivers of a waiver participant provided in a 24 hour block of time in the home.

**Structured Day Program Services** - Outpatient congregate setting providing services designed to improve or maintain waiver participants' skills and abilities to live as independently as possible within the community. Services may include a wide array of interventions and supports ranging from pre-vocational skill building to socially-oriented activities.

**Wellness Counseling Service** - Intermittent evaluation visits to waiver participants who are medically stable, to assist them in maintaining optimal health status.

**Home and Community Based Services Waiver  
Nursing Home Transition and Diversion (NHTD) Waiver**

**Letter of Introduction to Social Services District**

Date: \_\_\_\_\_  
LDSS Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Social Services District:

This is to notify you that \_\_\_\_\_ is an applicant for the Home and Community Based Services Waiver for Nursing Home Transition and Diversion (HCBS/NHTD Waiver).

Participation in the NHTD Waiver is contingent, in part, upon the applicant being eligible for Medical Assistance (MA) and certified as disabled. In order to participate in the HCBS/NHTD Waiver, Medicaid eligibility must be determined for coverage of community-based long-term care services (which includes coverage for waiver services).

A Waiver participant is only required to provide documentation of his/her current resources. These individuals are not subject to a transfer of assets “look-back” period nor to a transfer penalty period. This applicant has not yet been determined to be MA eligible and/or certified as disabled. Please (check all that apply):

- Determine MA eligibility for this applicant and send us a copy of your decision.
- Determine MA eligibility for this applicant and the applicant’s family and send us a copy of your decision. Spousal budgeting rules may be used.
- Determine disability for this applicant and send us a copy of your decision.

A prompt response to this request would be appreciated. If you have any questions about the applicant, you may call \_\_\_\_\_ at \_\_\_\_\_.

Thank you for your cooperation.

Sincerely,

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Telephone)

**HOME AND COMMUNITY-BASED SERVICES MEDICAID WAIVER  
FOR  
NURSING HOME TRANSITION AND DIVERSION (NHTD)**

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**NOTICE OF DECISION  
AUTHORIZATION**

Name & Address of Waiver Participant:
---------------------------------------

Client Identification Number (CIN): \_\_\_\_\_

Notice Date: \_\_\_\_\_

This is to inform you that your participation in the Home and Community-Based Services Medicaid Waiver for the Nursing Home Transition and Diversion Waiver (NHTD) has been:

**AUTHORIZED** effective on \_\_\_\_\_. The services you are authorized to receive are identified in your Service Plan and will be reassessed at least every six months.

The laws that allow us to do this are:

Section 1915(c) of the Social Security Act and, Section 366 (6-a) of the NYS Social Services Law

\_\_\_\_\_  
Regional Resource Development Specialist      Print Name

\_\_\_\_\_  
Address      Telephone

\_\_\_\_\_  
Address

**IF YOU DO NOT AGREE WITH THIS DECISION, YOU CAN ASK FOR A CONFERENCE, A FAIR HEARING, OR BOTH. PLEASE READ THE BACK OF THIS NOTICE TO FIND OUT HOW YOU REQUEST A CONFERENCE AND/OR A FAIR HEARING.**

**RIGHT TO CONFERENCE:** You may have a conference with the Regional Resource Development Specialist (RRDS) to review these actions. If you want a conference you should ask for one as soon as possible. At the conference, if the RRDS discovers that the wrong decision has been made, or if, because of information you provide, the RRDS decides to change the decision, you will receive a new Notice of Decision. You may ask for a conference by calling or writing to the RRDS at the telephone number and address listed on the first page of this notice. ***This is not the way to request a FAIR HEARING.*** If you ask for a conference, you are still entitled to a Fair Hearing. Read page 2 for Fair Hearing information.

- cc: Legal Guardian  
Authorized Representative  
Service Coordinator  
NYS DOH NHTD Waiver Program  
Social Services District with fiscal responsibility  
Social Services District of residence (If different from county of fiscal responsibility)

**RIGHT TO A Fair Hearing:** If you believe that the above action is wrong, you may request a State Fair Hearing by:

1. **Telephone:** You may call the statewide toll free number at 1-800-342-3334. (PLEASE HAVE THIS NOTICE WITH YOU WHEN YOU CALL) **OR**
2. **Fax:** Complete and fax a copy of this notice to (518) 473-6735 **OR**
3. **On-Line:** Complete and send the online request form at: <https://www.otda.state.ny.us/oah/forms.asp> **OR**

If you cannot reach the New York State Office of Temporary and Disability Assistance by phone, by fax, or on-line, please write to ask for a fair hearing before 60 days from the date of this notice.

4. **Mail:** Complete and send a copy of this notice to the Fair Hearing Section, New York State Office of Temporary Disability Assistance, P. O. Box 1930, Albany, New York 12201. Please keep a copy for yourself.
5. **New York City ONLY:** You may also walk-in to the Office of Administrative Hearings, of the Office of Temporary & Disability Assistance, 14 Boerum Place, Brooklyn, New York **or** 330 West 34<sup>th</sup> Street, 3<sup>rd</sup>. Floor, NY, NY. Bring a copy of this notice with you.

**YOU HAVE 60 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING**

If you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend, or other person or represent yourself. At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have the right to bring witnesses to speak in your favor. You should bring to the hearing any documents such as this notice, pay stubs, receipts, medical bills, heating bills, medical verification, letters, etc. that may be helpful in presenting your case.

I want a fair hearing. The decision is wrong because: \_\_\_\_\_

**LEGAL ASSISTANCE:** If you need free legal assistance, you may be able to obtain such assistance by contacting your Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking the yellow pages of your telephone book under "lawyer."

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS:** To help you get ready for the hearing, you have a right to look at your file. If you call or write to the RRDS, they will provide you with free copies of the documents from your file, which we will give to the hearing officer at the fair hearing. Also, if you call or write to the RRDS, they will provide you with free copies of other documents from your file, which you think you may need for your fair hearing. To ask for documents or to find out how to look at your file, call or write to the RRDS at the telephone number and address listed on the front page of this Notice. If you want copies of documents from your file, you should ask for them within a reasonable time before the date of the fair hearing. Documents will be mailed to you only if you specifically ask that they be mailed.

**INFORMATION:** If you want more information about your file, how to ask for a fair hearing, how to see your file, or how to get additional copies of documents, please call or write the RRDS at the telephone number and address listed on the front page of this Notice.

Print Name \_\_\_\_\_ Client Identification Number (CIN) \_\_\_\_\_

Address \_\_\_\_\_ Telephone \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_



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If you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend, or other person or represent yourself. At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have the right to bring witnesses to speak in your favor. You should bring to the hearing any documents such as this notice, pay stubs, receipts, medical bills, hearing bills, medical verification, letters, etc. that may be helpful in presenting your case.

I want a fair hearing. The decision is wrong because: \_\_\_\_\_

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**INFORMATION:** If you want more information about your file, how to ask for a fair hearing, how to see your file, or how to get additional copies of documents, please call or write the RRDS at the telephone number and address listed on the front page of this Notice.

Print Name \_\_\_\_\_ Client Identification Number (CIN) \_\_\_\_\_  
Address \_\_\_\_\_ Telephone \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_

**HOME AND COMMUNITY-BASED SERVICES MEDICAID WAIVER  
FOR  
NURSING HOME TRANSITION AND DIVERSION (NHTD)**

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**NOTICE OF INTENT TO  
DISCONTINUE FROM THE WAIVER PROGRAM**

Name & Address of Waiver Participant:
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Client Identification Number (CIN): \_\_\_\_\_

Notice Date: \_\_\_\_\_

Effective Date: \_\_\_\_\_

This is to inform you that your participation in the Home and Community-Based Services Medicaid Waiver for Nursing Home Transition and Diversion (NHTD) is being **DISCONTINUED** as of the Effective Date above.

Your participation in the waiver is being **DISCONTINUED** because you have chosen to no longer receive waiver services(s).

Explanation:

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The laws that allows us to do this are:

Section 1915(c) of the Social Security Act and, Section 366 (6-a) of the Social Services Law.

**IF YOU DO NOT AGREE WITH THIS DECISION, YOU CAN ASK FOR A CONFERENCE, A FAIR HEARING, OR BOTH. PLEASE READ THE BACK OF THIS NOTICE TO FIND OUT HOW YOU REQUEST A CONFERENCE AND/OR A FAIR HEARING.**

\_\_\_\_\_  
Regional Resource Development Specialist (RRDS)      Print Name

\_\_\_\_\_  
Address      Telephone

\_\_\_\_\_  
Address

cc:    Legal Guardian  
      Authorized Representative  
      Service Coordinator  
      NYS DOH NHTD Waiver Program  
      Social Services District with fiscal responsibility  
      Social Services District in county of residence (If different from county of fiscal responsibility)



**RIGHT TO CONFERENCE:** You may have a conference to review these actions. If you want a conference you should ask for one as soon as possible. At the conference, if the Regional Resource Development Specialist (RRDS) discovers that the wrong decision has been made, or if, because of information you provide, the RRDS decides to change the decision, corrective action will be taken. You will receive a new Notice of Decision. You may ask for a conference by calling the RRDS at the telephone number listed on the first page of this notice or by sending a written request to the address listed on the first page of this notice. ***This is not the way to request a fair hearing.*** If you ask for a conference, you are still entitled to a fair hearing. Read below for fair hearing information.

**RIGHT TO A FAIR HEARING:** If you believe that the above action is wrong, you may request a State fair hearing by:

1. **Telephone:** You may call the statewide toll free number at 1-800-342-3334. (PLEASE HAVE THIS NOTICE WITH YOU WHEN YOU CALL) **OR**
2. **Fax:** Complete and fax a copy of this notice to (518) 473-6735 **OR**
3. **On-Line:** Complete and send the online request form at: <https://www.otda.state.ny.us/oah/forms.asp> **OR**  
If you cannot reach the New York State Office of Temporary and Disability Assistance by phone, by fax, or on-line, please write to ask for a fair hearing before 60 days from the date of this notice.
4. **Mail:** Complete and send a copy of this notice to the Fair Hearing Section, New York State Office of Temporary Disability Assistance, P. O. Box 1930, Albany, New York 12201. Please keep a copy for yourself.
5. **New York City participants ONLY:** You may also walk-in to the Office of Administrative Hearings, of the Office of Temporary & Disability Assistance, 14 Boerum Place, Brooklyn, New York **or** 330 West 34<sup>th</sup> Street, 3<sup>rd</sup> Floor, NY, NY. Bring a copy of this notice with you.

**YOU HAVE 60 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING.**

If you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person, or to represent yourself. At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have the right to bring witnesses to speak in your favor. You should bring to the hearing any documents such as this notice, pay stubs, receipts, medical bills, heating bills, medical verification, letters, etc. that may be helpful in presenting your case.

I want a fair hearing. The decision is wrong because: \_\_\_\_\_

**CONTINUING YOUR BENEFITS:** If you request a fair hearing before the Effective Date stated on the front page of this Notice, you will continue to receive your benefits unchanged until the Fair Hearing decision is issued. However, if you lose the Fair Hearing, New York State may recover the cost of any Medical Assistance benefits that you should not have received.

If you do NOT want your aid to continue while waiting for the decision of the Fair Hearing, check the box below and send this page to the Fair Hearing Section, New York State Office of Temporary and Disability Assistance, P.O. Box 1930, Albany, New York, 12201.

I do NOT want my aid to continue while waiting for the decision of the Fair Hearing. I understand if I lose the Fair Hearing I may be responsible for the cost of any Medical Assistance benefits that the fair hearing determines I should not have received

**LEGAL ASSISTANCE:** If you need free legal assistance, you may be able to obtain such assistance by contacting your Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking the yellow pages of your telephone book under "lawyers."

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS:** To help you get ready for the hearing, you have a right to look at your file. If you call or write to the RRDS, they will provide you with free copies of the documents from your file, which we will give to the hearing officer at the fair hearing. Also, if you call or write to the RRDS, they will provide you with free copies of other documents from your file, which you think you may need for your fair hearing. To ask for documents or to find out how to look at your file, call or write to the RRDS at the telephone number and address listed on the front page of this Notice. If you want copies of documents from your file, you should ask for them within a reasonable time before the date of the fair hearing. Documents will be mailed to you only if you specifically ask that they be mailed.

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Print Name \_\_\_\_\_ Client Identification Number (CIN) \_\_\_\_\_  
Address \_\_\_\_\_ Telephone \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_

**HOME AND COMMUNITY-BASED SERVICES MEDICAID WAIVER  
FOR  
NURSING HOME TRANSITION AND DIVERSION (NHTD)**

**NOTICE OF INTENT TO  
DISCONTINUE FROM THE WAIVER PROGRAM**

Name & Address of Waiver Participant:

Client Identification Number (CIN): \_\_\_\_\_

Notice Date: \_\_\_\_\_

Effective Date: \_\_\_\_\_

This is to inform you that your participation in the Home and Community-Based Services Medicaid Waiver for the Nursing Home Transition and Diversion Waiver (NHTD) is being **DISCONTINUED** as of the Effective Date above.

Your participation in the waiver is being **DISCONTINUED** because:

- You are determined to no longer be eligible for nursing home level of care, per Patient Review Instrument and SCREEN.
- Waiver services cannot safely maintain you in the community.
- You do not have a current Service Plan.
- Other: \_\_\_\_\_

Explanation:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The laws that allows us to do this are:

Section 1915(c) of the Social Security Act and, Section 366 (6-a) of the Social Services Law.

**IF YOU DO NOT AGREE WITH THIS DECISION, YOU CAN ASK FOR A CONFERENCE, A FAIR HEARING, OR BOTH.**

**PLEASE READ THE BACK OF THIS NOTICE TO FIND OUT HOW YOU REQUEST A CONFERENCE AND/OR A FAIR HEARING.**

\_\_\_\_\_  
Regional Resource Development Specialist (RRDS)

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Address

- cc:
- Legal Guardian
  - Authorized Representative
  - Service Coordinator
  - NYS DOH NHTD Waiver Program
  - Social Services District with fiscal responsibility
  - Social Services District in county of residence (If different from county of fiscal responsibility)

**RIGHT TO CONFERENCE:** You may have a conference to review these actions. If you want a conference you should ask for one as soon as possible. At the conference, if the Regional Resource Development Specialist (RRDS) discovers that the wrong decision has been made, or if, because of information you provide, the RRDS decides to change the decision, corrective action will be taken. You will receive a new Notice of Decision. You may ask for a conference by calling the RRDS at the telephone number listed on the first page of this notice or by sending a written request to the address listed on the first page of this notice. ***This is not the way to request a fair hearing.*** If you ask for a conference, you are still entitled to a fair hearing. Read below for fair hearing information.

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I want a fair hearing. The decision is wrong because: \_\_\_\_\_

**CONTINUING YOUR BENEFITS:** If you request a fair hearing before the Effective Date stated on the front page of this Notice, you will continue to receive your benefits unchanged until the fair hearing decision is issued. However, if you lose the fair hearing, New York State may recover the cost of any Medical Assistance benefits that you should not have received.

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**INFORMATION:** If you want more information about your file, how to ask for a fair hearing, how to see your file, or how to get additional copies of documents, please call or write the RRDS at the telephone number and address listed on the front page of this Notice.

Print Name \_\_\_\_\_ Client Identification Number (CIN) \_\_\_\_\_

Address \_\_\_\_\_ Telephone \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

**HOME AND COMMUNITY-BASED SERVICES MEDICAID WAIVER  
FOR  
NURSING HOME TRANSITION AND DIVERSION (NHTD)**

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**NOTIFICATION OF DEATH OF A WAIVER PARTICIPANT  
TO  
LOCAL DEPARTMENT OF SOCIAL SERVICES**

Name & Address of Waiver Participant:   
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Client Identification Number (CIN): \_\_\_\_\_

Notice Date: \_\_\_\_\_

This is to inform you that the individual name above is discontinued from the NHTD waiver program due to the death of the waiver participant on \_\_\_\_\_.  
(date)

\_\_\_\_\_  
Regional Resource Development Specialist (RRDS)

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Address

cc: Service Coordinator  
NYS DOH NHTD Waiver Program  
Social Services District with fiscal responsibility  
Social Services District in county of residence (If different from county of fiscal responsibility)