

TO: Local District Commissioners, Medicaid Directors

FROM: Mark Kissinger, Director
Division of Long Term Care

SUBJECT: Assisted Living Program (ALP) Changes

EFFECTIVE DATE: Immediately

CONTACT PERSON: Lisa C. Farley, 518-474-5888

The purpose of this GIS is to inform local department of social services (LDSS) staff of several recent changes related to the Assisted Living Program (ALP) under New York's State Medicaid program. These changes, effective April 1, 2012, were adopted in the 2012 - 2013 State Budget based on recommendation by the Medicaid Redesign Team (MRT). Unless otherwise noted, the changes are effective April 1, 2012. The Department of Health (DOH) is amending regulations to conform to these statutory changes; however, these changes are effective without specific regulatory changes having been adopted. These changes:

1. Allow the ALPs to contract with Certified Home Health Agencies (CHHAs), Long Term Home Health Care Programs (LTHHCP) and other qualified providers for services included in the ALP Medicaid capitated rate. This change clarifies that ALPS may contract with a number of qualified providers to ensure appropriate services to residents.
2. Remove the limitation on the number of contracts an ALP may hold with CHHAs/LTHHCPs.
3. Allow ALPs to conduct assessments (both initial and periodic reassessments) directly or through contract with a CHHA or LTHHCP. Rates are being established to allow ALPs to bill Medicaid for initial assessments it conducts directly. OHIP rate setting staff is currently working to establish a rate, develop and implement regulations, amend billing procedures and secure the necessary approvals (e.g., CMS) to implement this provision.
4. Remove the requirement that the LDSS prior authorize payment for services. ALPS are no longer required to submit assessments to the LDSS.

However, the LDSS continues to have a role in the ALP admission process. ALPs will notify the LDSS of new ALP enrollments and the LDSS may conduct, at their discretion, post admission audits/reviews to assure that the individual is both Medicaid eligible and appropriately placed in the ALP.

Subsequent to the LDSS post admission reviews/audits, the LDSS is responsible for:

- Notifying the ALP of any Medicaid ineligibility;
- Notifying the ALP of individuals they determine to be medically ineligible or no longer medically appropriate (e.g. differences of opinion in the RUG category or in the level of care);

The ALP will be financially at risk for these individuals.

- Notifying the Office of the Inspector General's (OMIG) Medicaid Fraud and Abuse Unit of any potential misuse of Medicaid funds via:

Toll- Free: (877) 87FRAUD
FAX: (518) 408-0480
EMAIL: BAC@OMIG.NY.GOV

5. Removes the requirement that authorization for up to 6,000 new ALP beds be linked to the decertification of nursing home beds.

The MRT included several other ALP - related provisions in their final recommendations that do not require statutory changes. DOH will prepare regulatory amendments as necessary and ensure that providers are aware of the impact of these changes. For example, the Department is allowing ALP personnel (i.e. home health aides) to provide all services for which they are certified to perform in the community. Tasks which a home health aide (HHA) would be allowed to perform without violating Article 139 (Nurse Practice Act) of the State Education Law include personal care as well as health-related activities. In addition, the Department is clarifying policy to allow ALPs to contract with other parties for Medicare-covered services, such as physical therapy.

If you have any questions related to the recent changes to the Assisted Living Program, please contact the liaison at the above number.