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INFORMATIONAL LETTER

TRANSMITTAL: 92 INF-13

TO: Commissioners of  
 Social Services

DIVISION: Medical  
 Assistance

DATE: February 19, 1992

SUBJECT: Amendments to Recipient Restriction Program (RRP)  
 Regulations

SUGGESTED  
 DISTRIBUTION: Medical Assistance Staff

CONTACT PERSON: Stephen Jackson, Division of Medical Assistance  
 (518) 473-7312 or (800) 342-3715, Ext. 3-7312

ATTACHMENTS: 18 NYCRR 360-6.4(d)(5)  
 (available on-line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
80-ADM-93		358	SSA 1902		Omnibus
81-ADM-55		360-6.2	(a) (23)		Budget
83-ADM-23		360-6.3	SSA 1915		Reconcili-
84-ADM-5		360-6.4	(a) (2)		ation Act
89-ADM-8		383.5	42CFR431.42		of 1981
90-ADM-44		505.1	42CFR431.54		(Pub. L. 97-35)

The purpose of this release is to inform social services agencies of an amendment to Department Regulation 360-6.4 (Restriction of Recipient Access to Service). This change identifies additional abusive practices that warrant the restriction of recipients who engage in such practices. The effective date of the amended regulation is February 19, 1992.

Experience has demonstrated that the nature of recipient abuse has changed in recent years. This amendment represents an effort by DSS to control these new forms of recipient abuse.

Please note that restriction was established as the penalty for card loaning per 90-ADM-44 dated November 30, 1990. The new regulation expands the list of abusive practices that will result in restriction and consolidates all abusive practices in one section of the regulations.

The list of abusive practices that will now result in restriction includes:

- Card Loaning - occurs when an eligible recipient loans his/her MA-ID card to another individual.
- Forged or altered prescriptions/fiscal orders - occurs when a recipient forges a prescription or fiscal order on a stolen prescription pad, or adds to a legitimate prescription/fiscal order.
- Multiple MA-ID cards - occurs when a recipient illegally obtains the MA-ID cards of other eligible recipients and uses these cards to obtain services.
- Selling drugs obtained under MA - occurs when a recipient obtains prescription drugs by legitimate means and then sells the drugs to others.

Restriction to an appropriate provider type will help to control this type of behavior. It should also be noted that per the amended regulation, restriction under this subdivision does not preclude criminal prosecution. Please consult the attached regulation which further defines these practices.

This agency welcomes reports of any Medicaid recipient engaging in abusive practices. All reports of suspected abuse will remain confidential and will be investigated. Social services agencies should report individuals engaging in any of these practices to the Division of Medical Assistance by calling 1-800-342-3715, Ext. 4-6866. Documentation of abuse is extremely helpful and, if available, can be forwarded to:

Michael Zegarelli  
Medical Assistance Specialist III  
NYS Department of Social Services  
P.O. Box 1935  
Albany, NY 12201-1935

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Jo-Ann A. Costantino  
Deputy Commissioner  
Division of Medical Assistance

Paragraph (5) of subdivision (d) of section 360-6.4 is repealed and a new paragraph (5) of subdivision (d) is added to read as follows:

(5) Abusive Practices by Recipients

(i) The following practices engaged in by an MA recipient are abusive practices which warrant restriction of such recipient to an appropriate type(s) of restriction:

(a) a recipient uses or permits an MA identification card to be used to obtain services for an unauthorized person;

(b) a recipient presents a forged or altered prescription or fiscal order to an enrolled MA provider to obtain supplies, drugs or services under the MA program;

(c) a recipient is in possession of two or more MA identification cards which represent two or more MA cases; or

(d) a recipient sells or trades, or attempts to sell or trade, drugs or supplies acquired with an MA identification card.

(ii) When an MA recipient engages in an abusive practice identified in subparagraph (i) of this paragraph, a restriction may be imposed on the recipient for all eligible categories of services or only for those categories of services deemed appropriate by the SMRT.

(iii) The imposition of a restriction under this paragraph does not limit the taking by a social services official, district attorney or other prosecuting official of any other action authorized under law with respect to an act which constitutes a violation of the Social Services Law or Penal Law.