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| LOCAL COMMISSIONERS MEMORANDUM |  
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Transmittal No: 92 LCM-2

Date: January 3, 1992

Division: Medical Assistance  
& Adult Services

TO: Local District Commissioners

SUBJECT: Assisted Living Program (ALP)

ATTACHMENTS: Attachment I - Assisted Living Program Description  
(Available On-Line)

Attachment II - Letter to Potential Assisted Living  
Program Sponsors  
(Available On-Line)

The purpose of this memorandum is to inform social services districts that potential Assisted Living Program sponsors have been sent the attached information regarding the Assisted Living Program and to advise districts that they may receive inquiries concerning the Assisted Living Program from potential sponsors located within their district. In particular, potential Assisted Living Program sponsors may ask questions regarding negotiation of a contract with the district to become an authorized personal care services provider for Assisted Living Program residents. All district requirements for establishment of a personal care services contract will have to be addressed before a contract can be signed.

The role of the local social services district in an approved Assisted Living Program will be as follows:

1. Review the assessments of Medicaid clients for appropriateness in the Assisted Living Program (ALP);
2. Review the ALP's determination of the nursing facility Resource Utilization Group (RUG) category which reflects the medical needs of the Medicaid client and
3. Prior authorize payment to the Assisted Living Program (ALP).

A capitated Medical Assistance (MA) payment rate will be established by the State Department of Health that is equal to 50% of the amount that would have been expended for the patient in the RUG category indicated by the patient's diagnosis, in the geographic area where the Assisted Living Program is located. The residential portion will be paid for by the resident either through private pay or using SSI Level II benefits.

The Department anticipates that the regulations and administrative directives necessary to implement the Assisted Living Program will be in place in early 1992. In the interim, if you have any questions about the Assisted Living Program, please contact either Margaret O. Willard in the Division of Medical Assistance, or Frank Rose in the Division of Adult Services. Their telephone numbers are 1-800-342-3715, extension 3-5618 or 432-2404 or directly at (518) 473-5618 and 432-2404, respectively.

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Jo-Ann A. Costantino  
Deputy Commissioner  
Division of Medical Assistance  
NYS Department of Social Services

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William E. Gould  
Acting Deputy Commissioner  
Division of Adult Services  
NYS Department of Social Services

STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
DEPARTMENT OF SOCIAL SERVICES  
ASSISTED LIVING PROGRAM

DEFINITION

The Assisted Living Program (ALP) would provide supportive housing and home care services to individuals who are medically eligible for placement in a nursing facility. Home care services would be paid for through a capitated Medicaid or private pay rate. Payment for the residential services would be through Supplemental Security Income (Level II) or private pay. In order to be approved as an Assisted Living Program, an entity must hold licenses as:

1. An adult home or enriched housing program, AND

A home care services agency, OR  
A certified home health agency, OR  
A long term home health care program.

This program could be configured in several ways. For example, an organization seeking to provide ALP services could use an existing or new adult care facility to provide the residential component and become established as a licensed home care agency to provide personal care services (under a contract with the local department of social services). This ALP would contract with a CHHA or LTHHCP to provide professional (nursing and therapies) services.

Another approach would be for a parent organization which already has (or obtains) an adult care facility license and a home care services agency license to become approved as an Assisted Living Program. If the parent organization also holds the license for a CHHA or LTHHCP, this entity would provide the professional services for the ALP, otherwise the ALP would contract with an outside CHHA or LTHHCP for these services.

PROGRAM APPLICATION PROCESS

The Department of Social Services will have responsibility for general oversight of the Assisted Living Program although each of the component parts will be reviewed at application, and regulated by the Department currently responsible. The Department of Health will review and regulate the licensed home care agency. The Division of Medical Assistance (DSS) will review and oversee the personal care contract. The Division of Adult Services will review and regulate the adult home or enriched housing program.

1. The Assisted Living Program applicant obtains an application package from the consist of the following components:
  - a. If the entity is not already an existing adult home or enriched housing provider the materials submitted would include an application for certification as such.

- b. A detailed description of the proposed program including budgets, staffing and programmatic elements requested on forms provided by the Department.
        - c. A (proposed) contract with the local social services district establishing the ALP as an authorized personal care provider. All requirements of the social services district for the establishment of a contract for personal care services would have to be adhered to before a contract could be signed.
        - d. If the Assisted Living Program applicant does not have a certified home health agency or long term home health care program, a proposed agreement with an existing certified home health agency or long term home health care program for the provision of home care services and for participation in the assessment/reassessment process.
        - e. An application to become a licensed home care services agency if the entity does not have one already (and does not have a CHHA or a LTHHCP).
2. The Department of Social Services will distribute the application to the applicable reviewing units within DSS and DOH. Each department will review the application with regard to the aspects of the program for which it has specific oversight responsibilities including:
  - a. The Department of Social Services must be satisfied regarding the aspects of the program relating to the adult home or enriched housing program including the public need for the program, the character, competence and standing in the community of the operator, the compliance history of existing operators, the financial feasibility of the program and such other matters as deemed pertinent by the commissioner.
  - b. If there is a licensed home care services agency component, the Department of Health must be satisfied that the proposed provider meets all regulatory criteria for such licensure.
  - c. The social services district must be satisfied that the proposed program is an appropriate provider of personal care services.
3. Interagency meetings will be held to discuss specific applications. Completed actions on each of the components will be forwarded to the Division of Adult Services at DSS. If all completed actions are affirmative, a certificate will be issued for operation as an ALP.
4. Each agency will have surveillance responsibilities for its respective components of the program. The departments will coordinate their surveillance and enforcement efforts including activities related to on-site surveys of the assisted living programs. Enforcement actions by either agency could result in DSS's consideration of revoking the ALP certificate at a specific site.

PERSONS ELIGIBLE FOR THE ASSISTED LIVING PROGRAM

1. Persons eligible for the Assisted Living Program include those people who:
  - a. are medically eligible for placement in a nursing facility but can be appropriately cared for in an assisted living program. These people would require placement in a nursing facility if the assisted living program was not available. Such individuals could include people who no longer have a home or for whom the home environment is not a suitable place in which to live and receive home care services safely. It is not the departments' intention to substitute the assisted living program for existing and viable home care plans.
  - b. are categorized by the long term care patient classification system, (Resource Utilization Groups) as determined by the Patient Review Instrument and other assessment tools as a person who has a stable medical condition and is able to take sufficient action to assure self-preservation. Such action could be taken with the direction of others.
2. Appropriate persons would not include anyone in need of continual nursing or medical care, a person who is chronically bedfast or chairfast or anyone who is cognitively, physically or mentally impaired to a point where a resident's safety or the safety of others would be compromised. Residents in need of a wheelchair would not be precluded but should be able to transfer independently or with the help of one person.
3. It is anticipated that appropriate individuals would be classified primarily in the lower Resource Utilization Group (RUG) categories particularly those categories that formerly would have been considered appropriate for placement in a health related facility (HRF).
4. The Commissioner of Health and Commissioner of Social Services will have the authority to develop rules and regulations regarding the establishment of additional criteria for determining the appropriateness of individuals for the ALP.

RESIDENT ASSESSMENT PROCESS

1. A patient in a hospital or in the community is determined by the patient's physician to require nursing facility services.
2. The patient is informed of the Assisted Living Program as a possible resource for the provision of needed services. The names of ALPs in the area are provided to the patient if referral is elected by the patient. Referral to the program is completely voluntary on the part of the individual as is the selection of a particular program to which the individual is referred.

3. The Assisted Living Program conducts a brief screening to determine if the potential resident is definitely inappropriate for the program. Such persons would include those, among others, who have unstable medical conditions requiring continual nursing or medical care.
4. Based on the physician's orders, the ALP and the designated certified home health agency or long term home health care program conduct a joint assessment of the patient to determine appropriateness for the ALP. A nursing assessment will be conducted by a nurse from the CHHA or LTHHCP and designated staff of the ALP will conduct a social assessment. The assessment will be conducted using the Patient Review Instrument (PRI) and other designated assessment documents. A Resource Utilization Group (RUG) category is determined for reimbursement purposes.
5. If either the ALP or the CHHA/LTHHCP determines that the patient is not appropriate for the program, the patient is informed that ALP placement is not feasible and other discharge/placement activities begin or continue.
6. If the patient is determined to be appropriate for the ALP, the results of the assessment are sent to the local department of social services (for Medicaid eligible residents). The social services district reviews the assessment package and may conduct its own assessment of the potential resident. The social services district makes a determination on the appropriateness of the program for the individual and on the appropriateness of the RUG group as indicated by the PRI scoring.
7. If the social services district is in agreement with the assessment, a 45 day authorization for payment under the ALP is made. If the social services district does not agree that the person is appropriate for the ALP, the assessment package is forwarded to the Local Professional Director for review and recommendation. The social services district would notify the client of all decisions made either by the social services district itself or by the Local Professional Director. Potential ALP residents who are not satisfied with the decision are afforded Fair Hearing rights under the Social Services Law.
8. If the person is determined to be appropriate for the ALP, a plan of care is jointly developed by the ALP and the CHHA/LTHHCP. The plan of care will reflect the physicians orders and the results of the assessment process. The plan will clearly specify the services to be provided, the frequency for provision and who is responsible for providing them. Personal care services will be provided by the ALP, through the licensed home care agency, or CHHA or LTHHCP affiliated with the parent. In instances where there is no CHHA/LTHHCP attached to the parent, skilled services such as nursing and therapies will be provided by the CHHA/LTHHCP with which the ALP contracts. Other services may be arranged for by the ALP with other outside entities.

9. A reassessment of the patient must be jointly conducted by the ALP and CHHA/LTHHCP within 45 days of the initial authorization by the social services district. The reassessment process follows the same steps as the initial entry into the program and requires the social services district to make a further determination on the appropriateness of the program and the RUG group. The length of the authorization given by the social services district is related to the needs of the individual resident for follow-up reassessments but under no circumstances, may be longer than six months.
10. Amendments are made to the plan of care, if necessary, based on the changing needs of the individual and upon reassessment. If the resident's condition changes during the period between assessments such that the resident's RUG group changes, a reassessment will be conducted and approval sought from the social services district.

#### PAYMENT FOR ASSISTED LIVING PROGRAM SERVICES

1. The residential component will be paid for by the resident to the ALP. The Resident may use SSI Level II benefits or make private payments.
2. The individual may pay privately for the home care services or if eligible, through the Medicaid program. A capitated Medicaid payment rate will be established using Department of Health nursing facility rate setting data for each of the Wage Equalization Factor (WEF) regions in the state. The capitated payment rate for the Assisted Living Program will be equal to 50% of the amount that would have been expended for patients with the same RUG category in the geographic area in which the ALP is located.
3. Services covered under the capitated payment will include:
  - a. Nursing
  - b. Personal care
  - c. Home health aides
  - d. Therapies (PT, OT, Speech)
  - e. Medical supplies and equipment for which no prior approval is required
  - f. Personal emergency response systems
  - g. Adult day health care

4. The capitated rate is a price, not a cap and will be paid at the level determined by the appropriate RUG for each day the resident is in the Assisted Living Program. It is anticipated that the cost of care for some residents will be under the capitated payment and for others it will be over the capitated payment. The ALP will have the flexibility to balance its caseload and case mix.
5. The ALP may not discharge a resident because the cost of care, unrelated to a change in RUG category, exceeds the amount of the capitated payment.



Dear Potential Assisted Living Program Sponsor:

On June 12, 1991 Governor Cuomo signed budget legislation related to the Medicaid program in New York State. One of the components of this law (Chapter 165 of the Laws of 1991) defines the Assisted Living Program and specifies the criteria that will be used to approve and regulate these programs. The Assisted Living Program is designed to serve as an alternative to nursing home placement for individuals who historically have been admitted to nursing facilities for reasons that are primarily social, rather than medical in nature. The target population for the Assisted Living Program includes those individuals who would be classified in the "health related" categories of the nursing facility Resource Utilization Groups (RUGs) as identified using the Patient Review Instrument (PRI).

The Assisted Living Program was jointly developed by the Department of Health and the Department of Social Services. The primary goal of both departments in this effort was to develop a program that could serve people who don't need the highly structured, highly medical environment of a nursing facility in a less restrictive and lower cost residential setting.

In developing the Assisted Living Program, the departments understood that many individuals must seek placement in a nursing facility because they no longer have a suitable home in which to live or in which home care services may be provided safely. Other individuals require more supervision than can be economically provided through home care, yet they do not have health care needs that would make placement in a nursing facility the only possible option.

The initial work toward the Assisted Living Program was conducted as part of the development of a new nursing home bed need methodology (709.3 of the State Health Code). The need estimates developed through this methodology for 1993 include 4,200 beds to serve elderly people who previously would have been served in a nursing home. These are individuals who could be served elsewhere if a program were available that could meet both their needs for residential services and health care services and for which there was viable reimbursement.

The Assisted Living Program meets these needs by combining an adult home or enriched housing program with home care services to provide residential and supportive services to individuals who would otherwise have to seek nursing facility placement. The program also establishes a Medicaid reimbursement mechanism to pay for the home care services provided through the program on a capitated basis.

The purpose of this letter is to provide potential sponsors with information about the Assisted Living Program and to inform them of the guidelines and timetable for submitting a letter of interest to the State before completing a full application for the Assisted Living Program. This approach is being used to speed the development of these programs by not requiring sponsors to wait until all regulations and processes are in place before they begin conceptualizing an Assisted Living Program.

This approach is also being used because the initial need for the Assisted Living Program is limited by the 4,200 beds identified in the long term care need methodology. Both DOH and DSS want to give all potential applicants an equal opportunity to respond to this request for proposals while there is still need in all regions of the State. This approach will also permit the departments to review the initial submissions by potential sponsors and provide comments regarding the consistency of their proposals with the goals of the program, ultimately resulting in the availability of the best programs possible.

The following table shows the need for the Assisted Living Program for 1993 by HSA region. A regional approach to allocating need has been used instead of a county based approach because the estimates resulting from the long term care bed need methodology are very small in some counties and would not result in financially feasible programs.

TABLE 1

Allocation of ALP Need by HSA Region - 1993

Western New York	435
Finger Lakes	153
Central New York	375
NY-Penn	94
Northeastern	340
Hudson Valley	502
New York City	1,641
Nassau Suffolk	660
NEW YORK STATE	4,200

The goal of the departments is to provide additional capacity to the long term care system that will enable us to serve more people than we are currently serving. Therefore, in reviewing applications, consideration will be given to those applications proposing to ADD adult home or enriched housing program capacity to the system. This does not preclude submission of proposals for conversion of existing adult care facility beds or entire facilities to be used for the Assisted Living Program, however such conversion would result in the availability of fewer resources for the frail elderly not in need of ALP services. This factor would be taken into consideration in the review of ALP applications.

Assisted Living Programs will receive payment from two sources for residents who are Medicaid and Supplemental Security Income eligible. The following reimbursement parameters may be used to assist potential sponsors in evaluating the feasibility of an ALP:

RESIDENTIAL SERVICES

The residential services for low income residents will be paid for through Supplemental Security Income (SSI), Level II benefits. The 1991 SSI monthly benefits are \$842 downstate (New York City and Nassau, Suffolk, and Westchester counties) and \$812 in the rest of the State. Of this amount the resident is permitted to retain at least \$90 as a "personal needs allowance".

HOME CARE SERVICES

The Department of Health is in the process of calculating the initial Medicaid rates for the Assisted Living Program. These rates will be established for each of the Resource Utilization Groups (RUGs) for each of the sixteen Wage Equalization Factor regions in the State. Medicaid rates have been estimated for 1991. For the Physical A RUG Category (the anticipated primary category) the estimated Medicaid per diem rates range from approximately \$30 in the rural areas of the State to \$33 in the Albany region and \$47 in New York City. The estimated Medicaid rates are available upon request from Linda Gowdy at the Department of Health at the address and phone number provided below.

Interested sponsors should read carefully the enclosed material on the Assisted Living Program and submit a brief letter addressing the items detailed below. This letter should be received by December 1, 1991 and should be addressed to:

Elizabeth Collins, Director  
Bureau of Policy and Standards  
Division of Adult Services  
New York State Department of Social Services  
40 N. Pearl Street  
Albany, NY 12243

The Department of Social Services and the Department of Health will jointly review all submissions and provide comments to sponsors in January, 1992. It is anticipated that necessary regulations, an application form and other materials needed by sponsors to fully evaluate their interest in the program will be ready early in 1992. At that time, a schedule for application submission and review will also be available. Submission of a letter of interest at this time in no way commits a sponsor to submit a full application nor does failure to respond preclude submission of a full application.

The letter submitted by potential sponsors should be no more than 5 pages to briefly provide the information requested below:

1. Name and location of the proposed ALP and proposed capacity.
2. Description of the proposed target population for the ALP.
3. Description of how the components of the ALP will be achieved including the organizational relationship between them:

- a. Residential services. Would this be an adult home or enriched housing program? How many units would be ALP? How many would be non-ALP? Would this be new construction or conversion of an existing building. What is the estimated cost?
  - b. Home care services. How would the home care services be provided? Does the sponsor have an existing licensed or certified home care entity under its organizational structure or will a new entity be established? If the adult care facility has or will seek licensure as a home care services agency, name the proposed CHHA or LTHHCP which will provide the assessment services and professional services.
  - c. Relationship with local social services district. Does your organization have a contract with the local social services district to provide personal care services? If not, how will this relationship be established?
  - d. Other. Are there any additional relationships to be established with other providers/services in the community to serve the residents of the ALP?
4. A brief description of how the sponsor envisions the program working. What is the general philosophy to be followed? How will the component services relate to one another? How do these items relate to the proposed target population?
  5. An estimate of when the program could be operational.

If you have questions about the Assisted Living Program or about submission of the letter of interest, please contact either Elizabeth Collins at the address listed above, phone (518) 432-2988 or Linda Gowdy in the Division of Alternative Long Term Care Systems, New York State Department of Health, Room 2001, Corning Tower, Empire State Plaza, Albany, NY 12237; phone (518) 473-6275. If you have questions about establishing a personal care services contract for the Assisted Living Program with the local social services district, please contact Ann Hallock in the Division of Medical Assistance, New York State Department of Social Services, 40 N. Pearl Street, Albany, NY 12243; phone (518) 474-9451.

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William E. Gould  
Acting Deputy Commissioner  
Division of Adult Services  
NYS Department of Social Services

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Jo-Ann A. Costantino  
Deputy Commissioner  
Division of Medical Assistance  
NYS Department of Social Services

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Nicholas J. Mongiardo  
Deputy Director  
Division of Alternative Long Term Care Systems  
NYS Department of Health