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INFORMATIONAL LETTER

TRANSMITTAL: 93 INF-15

TO: Commissioners of  
 Social Services

DIVISION: Services and  
 Community  
 Development

DATE: April 19, 1993

SUBJECT: Protective Services for Adults (PSA):  
 Revised Admission and Discharge Criteria for  
 Certified Home Health Agencies (CHHAs)

SUGGESTED

DISTRIBUTION: Directors of Services  
 Adult Services Staff  
 Personal Care Services Staff  
 Agency Attorneys  
 Staff Development Coordinators

CONTACT PERSON: Any questions concerning this release should be  
 directed to your district's Adult Services Program  
 Representative at 1-800-342-3715, as follows:  
 Thomas Burton, ext. 432-2987  
 Kathleen Crowe, ext. 432-2996  
 Michael Monahan, ext. 432-2667  
 Janet Morrissey, ext. 432-2997, or  
 Irvin Abelman at 1-800-554-5391, ext. 804-1247

ATTACHMENTS: Section 763.5 DOH regulations (Not available on-line)  
 DOH Memorandum 93-3 (Not available on line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
90 ADM-40		457	Article 9-B		Section
92 ADM-49					763.5, Title 10 NYCRR Dept. of Health Memorandum 93-3

I. Introduction

The purpose of this release is to inform local social services districts of amendments to Section 763.5 of Title 10, NYCRR [Department of Health (DOH) regulations]. The revised DOH regulations clarify the criteria to be used by certified home health agencies (CHHAs) in making admission and discharge decisions when the health and safety of patients or the safety of agency staff are in question. In addition, a DOH Memorandum (DOHM 93-3) has been issued to further clarify these regulatory changes. Copies of both the regulations and the DOHM are attached to this release.

The amendments to Section 763.5 of the DOH regulations, which became effective on January 6, 1993, and the accompanying DOHM also address the linkage between Protective Services for Adults (PSA) and CHHAs regarding the delivery of services to certain clients/patients with health and safety problems. These revised standards address the concerns raised by many social services districts regarding the difficulties they encounter in obtaining home health care services for certain hard to serve clients. It is anticipated that the DOH regulations and the DOHM will result in enhanced cooperation between PSA and CHHAs and improved service delivery to clients with health and safety risks. Presented below is a summary of the new provisions of Section 763.5 of the DOH regulations and their impact on PSA.

II. Admission and Discharge Criteria

The amendments to Section 763.5 of the DOH regulations provide CHHAs with specific, but flexible criteria concerning the admission and discharge of patients with health and safety risks. According to the revised regulations, a person cannot be considered for admission by a CHHA unless at least one of the following criteria is met: the patient is self directing; able to call for help; can be left alone; or has other informal or community supports in addition to the services to be provided by a CHHA. As set forth in the regulations and discussed in the DOHM, home care services also may be denied in certain situations when a client has a history of non-compliance with care plans. In addition, the revised regulations permit CHHAs to deny admission to a patient if conditions in the home pose an imminent risk to the safety of home care workers.

These regulations also specify the situations in which a CHHA may discharge a patient. These situations include when:

- therapeutic goals have been achieved;
- conditions in the home pose an imminent threat to staff or jeopardize their ability to provide care;
- services are terminated by the client;

- the patient, the patient's family, informal supports or any legally designated representative is non-compliant, or interferes with the implementation of the care plan to the extent that home health care services will no longer be safe and appropriate or the attainment of reasonable therapeutic goals is impossible; and
- the availability of home health care services is no longer sufficient to meet the patient's needs and to assure the health and safety of the patient at home.

The application of these criteria are discussed in more detail in DOHM 93-3. The revised regulations also require CHHAs to refer any person to PSA who either is not admitted for, or is to be discharged from home health care services if it appears that the individual meets the PSA eligibility criteria. The regulations further provide that if PSA accepts the referral and adequately addresses the problems preventing admission or necessitating discharge, a CHHA must reassess the person's situation. The scope and types of PSA interventions to be employed by district staff on behalf of PSA eligible persons who have been denied admission to, or discharged from home health care services will, of course, depend on the nature of the situation. In some situations, environmental hazards will have to be addressed through the use of heavy duty cleaning services or household repairs. In situations in which the actions of family members or other persons in the household are preventing the delivery of home health care services, Orders of Protection and/or other legal interventions will have to be utilized when appropriate if other less restrictive measures, such as counseling, are not successful.

### III. Service Delivery to Persons Not Admitted or Discharged by a CHHA

In those situations in which it is ultimately determined that the admission for home health care services is inappropriate, the amended regulations require CHHAs to assist the client, in collaboration with PSA and/or other case management entities, in obtaining alternative services. If alternate services are not immediately available, the CHHA, upon request from PSA or another case management entity, may provide home health care services on an interim basis to address the patient's minimal health and safety needs. A discussion of minimal health and safety needs is contained in the attached DOHM. Furthermore, the DOHM encourages CHHAs to cooperate with PSA and other agencies in the development and implementation of interim care plans on behalf of persons who are denied admission for home health care services. In many situations, alternate services will not be immediately available for PSA clients because they will lack the capacity to give informed consent. In these cases, local social services districts are required by Article 9B of the Social Services Law and Part 457 of the Department's regulations to pursue the appropriate legal intervention, such as Guardianship, in order to secure appropriate services, including placement in a residential care facility.

In cases of patient discharge from home health care services, the amended regulations require CHHAs to continue providing those services which are necessary to address the minimally essential health and safety needs of the patient until an alternative placement becomes available when:

- the patient, the patient's family, informal supports or legally designated representative is non-compliant, or interferes with the implementation of a care plan to the extent that home health care will no longer be safe and appropriate, or the reasonable attainment of therapeutic goals is impossible; and
- the availability of home health care services is no longer sufficient to meet the patient's needs and assure the patient's health and safety at home.

CHHAs also are required to consult with family members, legal representatives and the staff of other agencies, including PSA, in the development of interim care plans. As stated above, for many PSA clients, alternate services or placement will not be immediately available due to the client's inability to give informed consent. In these cases, local social services districts, as part of their PSA responsibilities must pursue the appropriate legal interventions on behalf of these clients.

Local social services districts are encouraged to meet with CHHAs in order to establish the necessary relationships and procedures to help assure the effective implementation of these regulations.

IV. PSA and Personal Care Services

Although these regulations are limited to home health care services provided by CHHAs, the Department is currently developing companion standards for the Personal Care Services Program. In the interim, local district staff are directed to 92 ADM-49, entitled "Fiscal Assessment and Management of Personal Care Services". In Section IV. B. 2, on page 7 of this release, the linkage between PSA and Personal Care Services is briefly discussed, including the need for the continuation of Personal Care Services in certain types of cases involving PSA.

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Frank Puig  
Deputy Commissioner  
Division of Services & Community Development