

DEPARTMENT OF SOCIAL SERVICES

40 NORTH PEARL STREET, ALBANY, NEW YORK 12243-0001

MICHAEL J. DOWLING
Commissioner



LOCAL COMMISSIONERS MEMORANDUM

Transmittal No: 93 LCM-113

Date: September 1, 1993

Division: Health and Long Term
Care

TO: Local District Commissioners

SUBJECT: Patient Managed Home Care Programs

ATTACHMENTS: Patient Managed Home Care Guidelines (Not available on-line)

Pursuant to Chapter 795 of the Laws of 1992, the Commissioner of Health, in consultation with the Commissioner of Social Services, has issued guidelines (attached) for the direct establishment of patient managed home care programs by home care providers. Programs may be established by a certified home health agency, a licensed home care agency, a long term home health care program, or an AIDS home care program. Social services district participation is required for approval of any proposed project.

The purpose of patient managed home care is to allow chronically ill and/or physically disabled individuals receiving home care services under the medical assistance program greater flexibility and freedom of choice in obtaining such services while reducing administrative costs. The statute permits persons participating in the demonstration projects to arrange and pay for their own home care through a specifically designated payment system.

Individuals eligible to participate in the patient managed home care program must:

1. be eligible for medical assistance; and

2. be eligible for personal care services, or long term home health care program services, or AIDS home care program services, or services provided by certified home health agencies, including nursing services and home health aide services; and
3. be in need of personal care services, or long term home health care program services, or AIDS home care program services, or services provided by certified home health agencies including nursing services and home health aide services, as determined by an assessment; and
4. be able and willing to make informed choices about the type and quality of home care services to be provided; or
5. have a legal guardian able and willing to make such choices; or
6. have designated a relative or other adult who is able and willing to assist in making such choices.

The Department of Health, in cooperation with this Department, has scheduled a series of informational meetings to discuss and explain the program guidelines. The meetings will be held as follows:

Rochester, NY

Date: September 8, 1993

Time: 10:30 - 1:00

Location: Monroe County Office for Aging
Auditorium
375 Westfall Road
Rochester, NY

Mineola, NY

Date: September 10, 1993

Time: 12:00 - 2:30

Location: Nassau County Department of Social Services
Auditorium
1550 Franklin Avenue
Mineola, NY


Albany, NY

Date: September 13, 1993

Time: 1:00 - 3:30

Location: State Capital Building
Room 124
Albany, NY

I hope you will consider participation in this program. If you plan on attending one of these sessions or have any questions concerning this transmittal, please contact Mr. Richard Alexander of my staff at 1-800-342-3715, extension 3-5506, (User ID DMA037) or directly at (518) 473-5506, or Mr. Fred Waite at extension 3-5490, or directly at (518) 473-5490 (User ID OLT150). Questions concerning the guidelines should be directed to Ms. Judi Mooney, New York State Department of Health, at (518) 473-2878.



Sue Kelly
Deputy Commissioner
Division of Health & Long Term Care

PATIENT MANAGED HOME CARE PROGRAM GUIDELINES

Chapter 795 of the Laws of 1992 was enacted in July to permit eligible individuals to select, train, supervise, and terminate persons who provide services to them under the patient managed care program.

Program sponsors are expected to assist the patient with service coverage, supervision, advocacy and management; to monitor the patient's ability to fulfill his/her responsibilities; and to maintain documentation regarding implementation of the mutually agreed upon responsibilities in a patient record. Initially, the program has been approved for 400 persons, although the Commissioner of Health may authorize an increase in the number of participants.

It should be noted that the patient managed home care program authorized under Chapter 795 replaces and grandfathers in the demonstration programs previously authorized under Section 3622 of the PHL and Section 365-f of the SSL.

I. Program Approval Process

A. Eligible Sponsors

Licensed home care services agencies which have a contract with the local department of social services (LDSS) to provide personal care services or home care agencies exempt from licensure which have such a contract with the LDSS may offer patient managed home care services subject to the approval of the State Department of Health (DOH). Chapter 795 of the Laws of 1992 also permits long term home health care programs, certified home health agencies and AIDS home care programs to provide patient managed home care services.

B. Approval Process

1. Agencies interested in providing patient managed home care services must submit two (2) copies of a proposal to the New York State Department of Health, Bureau of Home Health Care Services, Empire State Plaza, Corning Tower Building, Room 1970, Albany, New York 12237-0733

¹ Please note, if a long term home health care program, certified home health agency, or AIDS home care program provides patient managed home care services, such services would be subject to all the requirements set forth in the federal conditions of participation for certified home health agencies (42CFR Part 484).

2. The proposal must include a description of how the patient managed home care program will be administered and operated; the number of individuals to be served; and the projected annual cost of the program. The proposal must also include a letter of support or other documentation from the LDSS indicating approval of the proposal and a copy of the agency contract with the LDSS to provide personal care services, which also delineates the roles and responsibilities of the agency and the LDSS concerning provision and payment of services under the patient managed home care program.
3. The Commissioner of Health in consultation with the Commissioner of Social Services will review and notify each prospective provider and LDSS of approval or disapproval of the proposal to provide patient managed home care services.

II. Program Administration and Operation

A. Patient Eligibility

In order to participate in the patient managed home care program the patient must:

1. be eligible for or currently receiving personal care services. It should be noted that under the provision of Chapter 795, persons providing services under the patient managed care program may provide a broad array of tasks which personal care aides in other home care programs are not permitted to perform;
2. be Medicaid eligible;
3. have an expected home care length of stay of at least 180 days;
4. reside in the district in which the LDSS contracts with an approved patient managed home care program; and
5. be a medically stable and self-directing person which means an individual who is able, willing, and capable of making choices about his/her clinical care and activities of daily living, understands the impact of the choice and assumes responsibility for the results of the choice; or has a designated guardian or adult willing and able, in an informed and reasonable way, to assist in making choices and to carry out the patient's responsibilities, in accordance with State law.

B. Patient Application Process

Persons interested in participating in the patient managed home care program must apply to and be approved by the DSS in the county in which they reside. The LDSS will obtain a medical order and nursing and social assessment for personal care services consistent with the regulations set forth in 18 NYCRR 505.14. These documents will be maintained by the LDSS and available to the patient managed care program upon request.

C. Patient Responsibilities under the Patient Managed Home Care Program

Patients are responsible for the following activities:

1. Managing the services of the persons they employ, including recruiting, interviewing, hiring, determining tasks to be completed, training, supervising and dismissing the employee;
2. Informing the program of changes in patient status, which may include, but are not limited to, hospitalization, address, phone number;
3. Informing the program of changes in the status of the persons they employ, which may include, but are not limited to, hours worked, tax exemptions, terminations;
4. Processing required paperwork to the patient managed home care program including timesheets, annual employee health assessments or medical examinations, and all required employment documents including but not limited to the W-4A form, IT-2104 form, employment/wage agreement, and employment eligibility verification (I-9);
5. Scheduling and arranging for vacation and holiday coverage;
6. Developing an emergency back-up system in the event substitute employees are needed to replace permanent employees;
7. Distribution of paychecks to each person under the patient's employ;
8. Insuring that persons work the hours indicated on the timesheet(s);

9. Scheduling an assessment by a registered nurse once every six months unless the frequency is otherwise authorized by the LDSS and agreed upon by the patient;
10. Signing a contractual agreement with the program to fulfill these responsibilities.

The patient managed home care program is not liable for fulfillment of the responsibilities agreed to be undertaken by the patient.

D. Program Responsibilities

The patient managed home care program is responsible for the following activities:

1. Processing the employee payroll;
2. Monitoring the completion and submission of employee medical forms and all required employment documents;
3. Acting as the employer-of-record for insurance, unemployment and workers compensation benefits;
4. Coordinating employee leave, health care insurance, and other benefit programs;
5. Monitoring the completion of the required nursing assessments form;
6. Providing recruitment and service coverage assistance and information assistance with training, supervision, advocacy and care management;
7. Ongoing monitoring of the patient's ability to fulfill those responsibilities agreed to in the written agreement between the patient and the program. Ongoing monitoring includes periodic contact with the patient, program attentiveness to the patient's completion of his/her responsibilities and review of the six-month nursing supervisory report.
8. Appropriate notification to the patient of intent to transfer or terminate the patient from the program;

9. Signing a contractual agreement with the patient to fulfill these program responsibilities.

The patient managed home care program must exercise reasonable care in carrying out its responsibilities under this program and is liable for failure to do so.

E. Operational Requirements

In addition to the above responsibilities, the patient managed home care program must maintain the following:

1. A personnel record for each employee which includes, at a minimum, a copy of the health assessment or medical form and information needed for payroll processing and benefit administration;
2. A record for each patient which includes copies of the social LDSS approval/referral, a description of responsibilities assumed by the patient, the ongoing six-month nursing assessments and other documentation of the program's ongoing efforts to monitor the patient's ability to fulfill those responsibilities;
3. Policies and procedures which address:
 - a. notification to potential patients by the LDSS and/or the program regarding program availability and patient eligibility;
 - b. a patient bill of rights and grievance and complaint procedure;
 - c. transfer of patients to alternative services/programs when patient managed home care services are no longer appropriate to include notice to the patient of his/her right to appeal;
 - d. data collection and submission of statistical reports as required by LDSS and DOH; and
 - e. required qualifications of persons providing services within this program, who at a minimum, must be at least 18 years of age or otherwise age appropriate and allowed for under New York State Department of Labor standards, have a Social Security number and be capable of performing the functions required by the patient.

Payment for patient managed home care services shall not be made to a patient's spouse, parent, son, son-in-law, daughter or daughter-in-law, but may be made to another relative if the other relative is not residing in the patient's home; or is residing in the patient's home because the amount of care required by the patient makes the presence of such relative necessary.

F. Accounting and Payment Systems

1. The patient managed home care program is responsible for the development and implementation of an effective budgeting and accounting system.
2. In accordance with the methodology set forth in State Department of Social Services (SDSS) law and its implementing regulations for this program, the administrative and general expenses will be considered to be part of the overall personal care rate. Reimbursement for services under this program will be established in accordance with the standards for personal care services and shall not exceed the amount which would otherwise be expended for such services in the absence of this program.
3. Such reimbursement is subject to adjustment and reconciliation based on post-audit review by the SDSS.

* The Department of Health wishes to acknowledge the collaborative assistance provided by Concepts of Independence, an operational client managed program in New York State, in the development of these proposed guidelines.