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| LOCAL COMMISSIONERS MEMORANDUM |
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DSS-4037EL (Rev. 9/89)

Transmittal No: 93 LCM-150

Date: October 26, 1993

Division: Commissioner's
Office

TO: Local District Commissioners

SUBJECT: Clarification to 93 LCM-26 dated March 22, 1993, on HIV/AIDS
confidentiality

ATTACHMENTS: None

This is to to clarify information in the memorandum cited above regarding the standard for social services district employee access to confidential HIV-related information.

Article 27-F of Public Health Law and Department regulations (see 18 NYCRR 357.2(b)) provide that authorized employees of social services districts may have access to confidential HIV-related information regarding a recipient of a health or social service when such access is reasonably necessary for the such employees to "supervise, monitor, administer or provide such service." This is the correct standard for access to confidential HIV-related information.

The definition of an "authorized employee" may only include an employee who, in the ordinary course of business, would have access to records relating to the care, treatment or provision of health or social services to the protected individual. Please note that the Department's Administrative Directive (91 ADM-36) on confidentiality, which focuses particularly on foster care, requires each authorized agency to have available for Department review a management plan specifically listing by title those employees who are entitled to access to confidential HIV-related information using the above-cited standard. Suggested titles and procedures for determining appropriate access are found on pp. 10 and 20 of 91 ADM-36. This directive also includes requirements for each agency to provide information and training for all employees who are granted access to confidential HIV-related information.

A warning statement prohibiting unauthorized disclosure of confidential HIV-related information must be provided to all employees granted access to such information, according to law, regulation and directive. A copy of this warning with reference to penalties of fine, jail sentence, or both for such unauthorized disclosure is provided in English and Spanish as Appendix C of 91 ADM-36.

We urge all districts to ensure that the information in 91 ADM-36, the previous LCM (93 LCM-26), and this clarifying LCM are provided to all staff.

Karen Schimke
Executive Deputy Commissioner