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

Transmittal No: 96 LCM-20

Date: February 23, 1996

Division: Health and Long
Term Care

TO: Local District Commissioners

SUBJECT: Health and Human Services Office of Inspector General
Final Audit Report on Personal Care Services

ATTACHMENTS: None

In response to a 1995 final audit report issued by the Health and Human Services Office of Inspector General (HHS/OIG) on the Title XIX, Medical Assistance Personal Care Services (PCS) Program, the Department of Social Services agreed to issue a local commissioner's memorandum (LCM) advising social services districts (SSD) and home care provider agencies of certain deficiencies, with recommended corrective action, in program operations.

The requested corrective action included: the need for complete and accurate reporting of personal care aides' time cards and periodic audit of this documentation by SSDs; the preparation of PCS aide activity sheets with notes and observations related to the services provided; the need for compliance with Department regulation regarding authorization and reauthorization documents in the personal care services case records; and increased supervisory review of the case record documentation.

TIME RECORDS

Specifically, 18NYCRR 505.14(h)(1) states that: "no payment to the provider shall be made for authorized service unless such claim is supported by the documentation of the time spent in provision of service for each individual patient."

Documentation of the time spent in the provision of service must contain the following elements: name of aide, name of recipient, dates, and days and hours worked. Additionally, for record systems relying on manually completed time cards, the signatures of the aide and client on the time card are also required. For records systems that employ electronic systems to record and verify name of aide, name of recipient, dates, and days and hours worked, the signatures of the aide and client on a time card are not required. However, the agency must comply with any additional requirements of the local social services district related to the use of the electronic record keeping system.

Documentation of the time spent in the provision of service is the basis for Medicaid payment to personal care services provider agencies. Records must be retained for a period of six years.

Additionally, the client's record should contain aide activity sheets which provide necessary documentation of the services rendered and the day to day condition of the patient. Such documentation must be readily available to the district for audit purposes. Districts are encouraged to monitor the billing practices of the agencies with which they are contracting.

EMPLOYEE RECORDS

Employee records must be accurate and complete. At a minimum, employee records must contain the following:

- o A completed employment application, or other satisfactory proof of the date of employment;
- o A dated training certificate, letter, or other satisfactory proof of the person's successful completion of a Department of Health approved home health aide training program or Department of Social Services approved personal care aide training program; or
- o Dated certificates, written references, letters or other satisfactory proof of training through related training programs such as nurse's aide training programs, or of related experience in an institutional or home setting which involves the performance of skills included in required basic training; and

Satisfactory proof of successful completion of competency testing and any remedial training required as the result of such testing. Specifically, the dated and scored competency testing instruments and record of any remedial training provided as a result of such testing;

- o An in-service card or log, or other satisfactory proof of the employee's participation in 6 hours of in-service training annually;

- o Satisfactory proof of any on-the-job training deemed necessary in individual cases by the RN supervisor;
- o An annual evaluation of overall job performance;
- o Satisfactory proof of good physical health per State Department of Health requirements for employees of home care agencies.

LABOR LAWS

Providers are, of course, responsible for payment of PCA employee wages and establishing employee work schedules that comply with NYS Labor Laws. Providers should be familiar with New York State Labor Laws that pertain to employees working as PCAs. Questions or concerns regarding NYS Labor Laws may be directed to the Division of Labor Standards regional offices listed below:

Albany 12240
Gov. W. Averell Harriman
State Office Building Campus
(518) 457-2730

New York City
One Main Street
Brooklyn, NY 11201
(718) 797-7499

Binghamton 13901
30 Wall Street
(607) 773-7127

Rochester 14614
155 Main Street West
(716) 258-4550

Buffalo 14202
65 Court Street
(716) 847-7141

White Plains 10603
30 Glen Street
(914) 997-9521

Hempstead 11550
175 Fulton Ave.
(516) 481-6064

Districts are reminded that 24 hour continuous care is the "...provision of uninterrupted care, by more than one person, for a patient who, because of his/her medical condition and disabilities, requires total assistance with toileting and/or walking and/or transferring and/or feeding at unscheduled times during the night." Therefore, although labor laws do not prohibit any one aide from working 24 continuous hours, the personal care regulations 505.14(a)(3) preclude such provision of employment. Districts should verify that service is being provided by more than one person for each 24 hour span when authorizing 24 hour continuous care.

MONITORING TIME RECORDS, BILLING AND EMPLOYEE RECORDS

Districts are reminded of their responsibility, per 505.14(g)(3)(xv), to "monitor personal care services to ensure that such services are provided according to the authorization..." Such monitoring should include a review of the providers contractual responsibilities which includes billing practices, employee records and PCS training requirements. Information

regarding the monitoring of employee training by the SSDs is contained in 83 ADM-60.

AIDE ACTIVITY SHEETS

SSDs and home care provider agencies are reminded that Public Health Law 10 NYCRR 767.6 requires the client case record to contain "observation and reports made to the registered professional nurse or therapist by the home health aide or personal care aide, including activity sheets." SSDs and home care provider agencies should assure that the weekly activity sheets are completed and that the PCS aides use these to document observation of client response to the plan of care.

AUTHORIZATION DOCUMENTATION AND SUPERVISORY REVIEW

The HHS/OIG report disclosed weaknesses in the completion and timeliness of physician's orders. In some cases, physicians had completed the orders despite the fact that they had not examined the clients within thirty days of the order's completion. Additionally, orders were reviewed that did not contain adequate information to support the need for the provision of PCS. Finally, the timeliness of the receipt of the physician's orders in relation to the date of service authorization was at issue.

Districts are reminded of the need to authorize PCS per regulatory requirements, NYCRR 505.14. Receipt of the physician's order is the first step in determining eligibility for PCS. Information in the physician's order must be current and must be based on a medical examination of the client within thirty days prior to the signing of the order. It is the responsibility of the authorizing agency to obtain a physician's order that meets the program requirements. The physician's order must be reviewed for adequacy of information and should contain, at a minimum, the date of the medical examination, the client's medical diagnosis which necessitates the need for PCS, the medication regimen of the client, and the need for assistance with PCS tasks. Physician's orders which are incomplete must be returned to the physician for appropriate action.

Following the receipt of the physician's order, the district must obtain current nursing and social assessments, determine the appropriate level and amount of service, complete a fiscal assessment, if appropriate, and authorize PCS for the eligible client. On an initial PCS case, services should not be authorized until all documentation is received. When the case is ready for reassessment, the district should provide the client with the necessary physician's order form at least thirty days prior to the end of the authorization period in order to allow for the timely completion and receipt of the necessary documentation.

Prior to completion of the prior approval and provision of services, the SSD should conduct supervisory reviews of the PCS case record. The supervisory review must assure that the authorization packet contains the required documentation.

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SSDs with any questions or comments regarding the content of this memorandum, should contact the Bureau of Long Term Care's Personal Care Services Program field monitors, Marcia Anderson, George Fleury or Margaret Willard at 1-800-343-8859, extension 3-5602, 3-8269 or 3-5569 or (518) 473-5602, 473-8269 or 473-5569 or on-line at OLT130, AW5610 or AW8310 respectively.

Richard T. Cody
Deputy Commissioner
Division of Health and Long Term Care