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

Transmittal No: 96 LCM-28

Date: March 18, 1996

Division: Commissioner's  
Office

TO: Local District Commissioners

SUBJECT: Public Notice Regarding Possible Amendments to the State  
Medicaid Plan

ATTACHMENTS: 1. Public Notice (available on-line)  
2. Bill (S.5603-A; A.8410-A) (not available on-line)

Recently you received a copy of public notice with regard to Executive Budget proposal related to the Medical Assistance Program and possible amendment to the State Medicaid Plan. The public notice indicates that copies of the bill containing the proposed changes affecting the Medicaid State Plan are on file in each of the local social services districts and are available for public review. Attached is a copy of the public notice and the bill containing the changes.

If you have any questions in this matter please contact Greg MacMillan at 1-800-343-8859, extension 3-3271.

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John Robitzek  
Deputy General Counsel

Public Notice

Department of Social Services

Pursuant to, but not necessarily required by, 42 CFR 447.205, the New York State Department of Social Services hereby gives notice of the following:

The Executive Budget and legislation implementing the Budget's provisions requiring changes to the Medical Assistance Program (Medicaid), together with amendments thereto, have been submitted to the State Legislature. The bill (S.5603-A; A.8410-A) implementing the Budget would make a number of changes to the Medicaid program in New York State which may require amendments to the Medicaid State Plan and which may, arguably, significantly affect the methods and standards for setting payment rates for services under the Medicaid State Plan.

Specifically, the legislation proposes to:

Restructure the financing of long term home care services by providing counties with a Home Care Block Grant;

Allow home health services and personal care services to be provided at the option of the social services district;

Redefine home health services and eliminate the physician order requirement for personal care services;

Limit payments for personal care services under Medicaid;

Repeal the fiscal assessment and Home Assessment Resource Review Instrument (HARRI) provisions of the Social Services Law in favor of locally developed assessment tools;

Restructure the financing mechanism for Medicaid Home Relief services by providing counties with an Indigent Medical Care Block Grant, authorizing a five percent hold-back reserve and allowing counties to retain fifty percent of unspent State share Block Grant funds;

Provide social services districts with the authority to negotiate rates of payment for services provided under the Indigent Medical Care Block Grant;

Provide for optional default payment rates under both the Home Care Block Grant and the Indigent Medical Care Block Grant of eighty percent of the current Medicaid rate and limit personal care;

Allow regional planning for the provision of Home Care and Home Relief services under Medicaid;

Require social services districts to amend their local medical plans to set forth the services to be provided under the Home Care Block Grant and the Indigent Medical Care Block Grant and define individuals who may receive Medicaid services under the Indigent Medical Care Block Grant;

Establish authority for additional capitated long term care initiatives and allow for the continuation of current demonstration projects, and;

Provide that, effective April 1, 1996, in determining the amount of State reimbursement to be made to social services districts on account of Medicaid expenditures made by the districts, the amount to be paid as federal funds, if any, will be calculated at the rates of federal financial participation that were in effect on December 1, 1995.

The bill makes a number of changes in the areas of Medicaid eligibility and recoveries. The bill would, among other provisions, prevent an individual from creating his or her own poverty in order to qualify for home care services, would prevent legally responsible relatives from artificially refusing to make income and resources available in order to create Medicaid eligibility and would enhance a social services district's ability to recover the costs of Medicaid from a minor's personal injury award. These provisions will help to bring Medicaid costs under control by preventing individuals who are not poor and who would not otherwise be eligible for Medicaid from shifting the burden of paying for high cost medical care to the taxpayers.

Specifically, the legislation proposes to:

Provide for transfer of assets limitations to be applied to community based long term care services;

Change, for Medicaid purposes, the definition of "estate" to include assets which would be considered to be testamentary substitutes to prohibit recipients from transferring property to their heirs, thereby avoiding a Medicaid lien;

Eliminate current loopholes which allow a spouse or legally responsible relative to refuse to make income and resources available to cover costs of medical care, thereby gaining eligibility for the person requiring care;

Reduce the State guaranteed minimum spousal resource standard to \$35,000 or the spousal share, while maintaining the federal maximum currently in law, and;

Allow for financial recovery to be made from individuals under the age of twenty-one who are receiving Medicaid and who have received a personal injury award and clarify other circumstances in which a social services official may effect Medicaid recovery.

The Executive Budget also requires certain changes to the Medicaid program in New York State for which implementing legislation is not required but which may require amendments to the Medicaid State Plan and which may, arguably, significantly affect the methods and standards for setting payment rates for services under the Medicaid State Plan.

Specifically, the changes would:

Reduce by fifteen percent administrative costs contained in Office of Mental Retardation and Developmental Disabilities (OMRDD) clinic Day Treatment rates;

Reduce by ten percent administrative costs contained in rates for Intermediate Care Facilities for the Developmentally Disabled;

Decrease OMRDD day treatment transportation costs by ten percent by including transportation fees in day treatment rates;

Cap OMRDD day treatment transportation rates at \$30 per trip;

Remove claims for medical services transportation of OMRDD day treatment clients from the Medicaid Management Information System (MMIS), and;

Use income projection and reconciliation methods for post-eligibility determination of income for institutionalized individuals.

These changes are expected to decrease annual aggregate Medicaid expenditures in the amount of \$1.235 billion on a full annual basis.

These changes are being made to the Medicaid program because:

New York's Medicaid program is the most expensive in the nation. In the absence of cost containment, total Medicaid spending will reach \$26.6 billion, an increase of approximately 7 percent over the current year. This rate of growth underscores the need for the State to aggressively pursue actions to control escalating costs. Even after implementation of this bill's provisions, New York's Medicaid program will continue to be, by far, the most expensive in the nation.

In order to provide counties with the flexibility to control and manage delivery of Medicaid services, the State will block grant funds to counties, creating a Home Care Block Grant, for all community-based long term care, and an Indigent Medical Care Block Grant to care for indigent persons, including the current Home Relief population. These are components of the Medicaid program which can be administered more cost-effectively at the county level. These block grants allow counties to negotiate rates of payment with providers, determine eligibility for services, and fashion service packages tailored specifically to the needs of the poorest citizens.

In the aggregate, there will be no new costs to federal, state or county governments as a result of these changes.

Copies of the bill containing the proposed changes affecting the Medicaid State Plan are on file in each local (county) social services district and are available for public review.

For the New York City district, copies are available at the following locations:

New York County

250 Church Street

New York, NY 10013

Queens County

Queens Center

3220 Northern Boulevard

Long Island City, NY 11101

Kings County

Fulton Center

114 Willoughby Street

Brooklyn, NY 11201

Bronx County

Tremont Center

1901 Monterey Avenue

Bronx, NY 10457

Richmond County

Richmond Center

95 Central Avenue

St. George, Staten Island, NY 10301

The public is invited to review and comment on these proposed amendments.

Any written comments and inquiries for further information may be addressed to:

Michael McNaughton

Local Policy Communications Unit

New York State Department of Social services

Albany, NY 12243