

+-----+
| LOCAL COMMISSIONERS MEMORANDUM |
+-----+

Transmittal No: 90 LCM-87

Date: June 20, 1990

Division: Commissioner's
Office

TO: Local District Commissioners

SUBJECT: Filed Regulation 540.7
Filed Regulation Part 407

ATTACHMENTS: Attachment I - 540.7 (available on-line)
Attachment II - Part 407 (available on-line)

The following changes to the Official Regulations of the State Department of Social Services have been filed for adoption with the Secretary of State.

- 18 NYCRR 540.7 relating to submission of medical assistance claims.

The final rule - Filed: 6/15/90 - Effective: 7/3/90.

- 18 NYCRR Part 407 relating to consolidated services plan.

Filed as an emergency rule - 2/13/90 - effective 2/13/90.
Refiled as an emergency rule - 5/11/90 - effective 5/11/90.

The final rule - Filed: 6/15/90 - Effective: 7/3/90.

Michael J. McNaughton
Director, Local District
Policy Communications

STATE DEPARTMENT OF SOCIAL SERVICES

ALBANY, NEW YORK

Pursuant to the provisions of Sections 20(3)(d), 34(3)(f), and 363-a(2) of the Social Services Law, I, Cesar A. Perales, Commissioner of Social Services, do hereby amend Section 540.7 of the Official Regulations of the State Department of Social Services, being Chapter II of Title 18 NYCRR, effective upon publication of the Notice of Adoption in the State Register.

Dated:

Signed: _____
Commissioner

This is to certify that this is the original of an order of the State Department of Social Services, made on June 14, 1990 amending Section 517.3 of the official Regulations of the State Department of Social Services, being Title 18 NYCRR, the express terms of which were published in the New York State Register on March 7, 1990.

Dated:

Signed: _____
Commissioner

Paragraph (8) of subdivision (a) of section 540.7 is amended to read as follows:

(8) a dated certification by the provider that the care, services and supplies itemized have in fact been furnished; that the amounts listed are due and owing and that, except as noted, no part thereof has been paid; that payment of fees and rates made in accordance with established schedules is accepted as payment in full for the care, services and supplies provided; that there has been compliance with title VI of the Federal Civil Rights Act of 1964 in furnishing care, services and supplies without discrimination on the basis of race, color or national origin; that such records as are necessary to disclose fully the extent of care, services and supplies provided to individuals under the New York State Medicaid program will be kept for a period of not less than six years from the date of payment unless otherwise required by regulation, and information will be furnished regarding any payment claimed therefor as the local social services agency or the State Department of Social Services may request; and that the provider understands that payment and satisfaction of this claim will be from Federal, State and local public funds and that he or she may be prosecuted under applicable Federal and State laws for any false claims, statements or documents, or concealment of a material fact [.] ; provided, however, that each bill need not contain the dated certification required by this paragraph in cases where the care, services or supplies (other than the services of a clinical laboratory) were furnished in a Canadian province or in a state other than the State of New York by a provider with a principal

place of business outside the State of New York so long as the provider has previously filed with the department a certification containing all of the provisions required by this paragraph which will be applicable to all bills to be submitted by the provider during the period of the provider's participation in the medical assistance program.

STATE DEPARTMENT OF SOCIAL SERVICES

ALBANY, NEW YORK

Pursuant to the provisions of Sections of 20(3)(d), 34-a, 409-d(1) and 473(2)(b) of the Social Services Law, I, Cesar A. Perales, Commissioner of Social Services, do hereby repeal Part 407 and adopt a new Part 407, of the Official Regulations of the State Department of Social Services, being Chapter II of Title 18 NYCRR, effective when the Notice of Adoption is published in the New York State Register.

Dated:

Signed: _____
Commissioner

This is to certify that this is the original of an order of the State Department of Social Services made on June 14, 1990 repealing Part 407 and adopting a new Part 407 of the official Regulations of the State Department of Social Services, being Title 18 NYCRR, a summary of which was published in the New York State Register February 28, 1990.

Dated:

Signed: _____
Commissioner

Part 407 is repealed and a new Part 407 is added to Title 18 NYCRR to read as follows:

Part 407

CONSOLIDATED SERVICES PLAN

Sec.		Sec.	
407.1	General statement	407.8	Procedures for review and approval of the plan and annual implementation reports
407.2	Services program year		
407.3	Submission of the plan and annual implementation reports	407.9	Monitoring of the plan and annual implementation reports
407.4	Services	407.10	Amendments to the plan and annual implementation reports
407.5	Content of the plan		
407.6	Annual implementation report		
407.7	Criteria for approval of plan and annual implementation reports		

Section 407.1 General statement. (a) All references to the Comprehensive Annual Social Services Plan in this Title are deemed to be references to the Consolidated Services Plan.

(b) Pursuant to Chapter 681 of the Laws of 1981, each social services district must prepare and submit to the department a multi-year Consolidated Services Plan, hereinafter referred to as the "plan", setting forth its plan for three years of service for adults and for family and children's services.

(c) Commencing with the year following initial preparation of the plan and for each succeeding year of the plan, each social services district must prepare and submit to the department for approval, in a format and at a time specified by the department, an annual implementation report.

(d) A common planning process will be implemented integrating the separate plans required for family and children's services, protective services for adults, child protective services and title XX services into the plan. The plan requirements supersede the following:

(1) Family and Children's Services Plan as specified in Part 429 of this Subchapter;

(2) Protective Services for Adults Plan as specified in section 457.8 of this Subchapter;

(3) Child Protective Services Plan as specified in subdivision (e) of section 432.2 of this Subchapter; and

(4) Comprehensive Annual Social Services Program Plan as specified in Part 401 of this Subchapter.

407.2 Services program year. (a) The plan becomes effective on the date so designated by the commissioner once the plan is approved by the commissioner, and remains in effect until such time as the commissioner approves a plan for the next three-year plan period.

(b) Any plan submitted to the department must be modified by the approved annual implementation report. Amendments to the plan may be made in accordance with section 407.10 of this Part.

407.3 Submission of the plan and annual implementation reports. (a) In accordance with a schedule to be determined by the commissioner, each social services district must develop and submit a plan and annual implementation reports in such format as prescribed by the department.

(b) Once the plan or annual implementation report is submitted to the department, the district must make it available to the public upon request.

407.4 Services. The plan must provide information on services provided directly or contracted for through purchase of services agreements which include but are not limited to:

- (a) foster care for children;
- (b) residential placement services for adults;
- (c) preventive services for children;
- (d) preventive services for adults;
- (e) child protective services;
- (f) protective services for adults;
- (g) adoption services;
- (h) employment services;
- (i) housing improvement services;
- (j) day care;
- (k) domestic violence services;
- (l) unmarried parent services;
- (m) family planning services;
- (n) health-related services;
- (o) home management services;
- (p) homemaker services;
- (q) housekeeper/chore services;
- (r) educational services;
- (s) social group services to senior citizens;
- (t) transportation; and
- (u) information and referral.

The district may include information on other services at its discretion.

407.5 Content of the plan. Each plan must contain the following components:

(a) Needs assessment. (1) For the services specified in section 407.4 of this Part, the needs of families, children and adults for whom the social services district is or may be responsible must be assessed.

(2) The assessment must be based on but not limited to:

- (i) previous years' needs assessments;
- (ii) previous years' success or failure to achieve State objectives as specified in a department release;
- (iii) manner of current service delivery;
- (iv) statistical measure of the number of persons requiring services and care;
- (v) characteristics of persons currently receiving service and care;
- (vi) data obtained through the district's public participation process as required in subdivision (g) of this section; and
- (vii) indicators of general social and economic conditions in the district.

(3) The needs assessment must include a numerical estimate of families, children and adults requiring each service listed in section 407.4 of this Part.

(4) Each social services district must provide a narrative description of how the numerical estimates were derived.

(b) Resource inventory. (1) The plan must reflect the existing resources in the county and surrounding region which are available to provide services and care to children and their families, and to adults. Social services districts must review information which is provided by the department on the number and capacity of service providers and note any addition, deletions, changes or corrections to the resources listed.

(2) Each social services district must describe its organizational structure for family and children's services and for adult services, including the operational relationship of those units both to the commissioner and to other components of the department, and the number of full-time equivalent staff. For protective services for adults, the total number of professional staff involved in the provision of such services must also be indicated.

(c) District goals, objectives and activities. (1) Each social services district must indicate in the plan its goals, objectives and activities. These goals, objectives and activities must be established for foster care, child protective services, child preventive services, adoption services, protective services for adults and for at least two other services.

(2) Such goals, objectives and activities must be based on the needs assessments and resource inventory, and must be intended to ensure that:

- (i) families are able to stay together and develop supportive relationships and maintain or achieve independence;
- (ii) families with children in foster care are able to reunite and develop supportive relationships and maintain or achieve independence;

(iii) children whose families are unable to care adequately for them receive appropriate, stable, substitute care;

(iv) children in foster care who are unable to return to their families are provided permanent homes to develop the capacity to live independently upon achieving adulthood;

(v) elderly and disabled people are able to participate to the fullest possible extent in the life of their communities, particularly through the availability of a full range of in-home and community-based services; and

(vi) residential care for adults and the elderly is provided in a manner that reflects the full range of their social and medical needs, and that affords them the fullest possible opportunity for continued participation in community life.

(3) Objectives must be stated in terms of outcomes for the client, and be expressed in measurable quantifiable terms. The majority of objectives will be for three years.

(4) For each service for which goals and objectives have been established, the district must describe the explicit activities which will be undertaken to meet the indicated objectives. The activities must be measurable, time limited and contain a defined target for achievement. Activities may include the development of new resources, expansion of existing resources, utilization of available resources, and modification of the district's organizational structure.

(5) Each social services district must, in a manner to be specified by the department, address issues identified by the department in its analysis of economic and social indicators.

(6) For those program procedures/functions which are required by federal or State law or regulation and for which the social services district notes it is not in compliance with the legal assurance and program information section of the plan, the district must develop ways to achieve compliance and describe activities to be undertaken to achieve compliance.

(7) For those program areas which are noted as not current practice in the legal assurance and program information section of the plan, each social services district must describe activities to address at least two of these items.

(d) Program and fiscal requirements. For each service for which a needs assessment is completed, each social services district must identify in the plan projected program and fiscal requirements including:

(i) numbers of persons to receive each service;

(ii) estimated expenditures for each service and identification of expected reimbursement from all sources; and

(iii) method of provision for each service.

(e) Unmet needs. Each social services district must describe the major areas and issues of need which are not able to be addressed by its plan.

(f) Each social services district must include in the plan income eligibility standards for those services for which such standards are at the district's option.

(g) Public participation. Each social services district must include in its plan a description of how public participation was achieved, and the mechanisms used to obtain public comment in accordance with the following:

(1) At least one public hearing on the plan must be held during the development and prior to the submission of the plan. Such public hearing(s) must be held only after 15 days notice is provided in a newspaper of general circulation in the district. Such notice must specifically identify the times during the public hearing when the child protective services, adult services and family and children's services components of the plan are to be considered. The plan must include the date(s) of such hearing(s); how the hearing(s) was publicized; the number of persons who attended and a general description of their interests and affiliations; and the major issues raised at the hearing(s) and how these comments were used in the planning process.

(2) Local advisory councils established pursuant to Part 341 of this Subchapter must participate in the development of the plan. At a minimum, prior to submission of the plan, the local commissioner must present the plan to the council for review. The plan must contain the role and activities of the council in the development of the plan, the date(s) of the meeting(s) at which the plan is discussed, the issues discussed at each such meeting and their impact, if any, on the plan.

(3) As required by section 423.3(a) and 473.2(b) of the Social Services Law, discussions and meetings with public, private and voluntary organizations which are involved in adult and family and children's services must be held to acquire their advice and consultation in the development of the plan. The plan must include the dates of such meetings, the organizations represented, the issues discussed and the degree to which such comments were incorporated into the planning process. At a minimum, such organizations must include: health and mental health agencies; aging, legal and law enforcement agencies, societies for the prevention of cruelty to children; family court judges; youth bureaus or boards; and departments of probation.

(h) Legal assurances and program information. Each social services district must include in its plan, legal assurances and program information which it is prepared to document on request of the department. These assurances and information must describe the district's operations of services programs required by federal and State law and regulation.

(1) Each social services district must provide the following general legal assurances:

(i) All providers of services under the plan will operate fully in conformance with all applicable federal, State and local fire, health, safety and sanitation and other standards prescribed in law or regulations. Where a social services district is required to provide licensure for the provision of services, agencies providing such services must be licensed.

(ii) All providers of services under the plan are required to operate each program or activity so that, when viewed in its entirety, the program or activity is readily accessible to and usable by handicapped persons.

(iii) Benefits and services available under the plan are provided in a non-discriminatory manner as required by title VI of the Civil Rights Act of 1964 as amended.

(iv) The activities covered by the plan serve only those individuals and groups eligible under the provision of applicable State and federal statutes.

(v) No requirements as to duration of residence or citizenship will be imposed as a condition of participation in the State's program for the provision of services.

(2) Each social services district must provide the following legally required program assurances:

(i) The district provides applicants for or recipients of services and care adequate and timely notice regarding denial, discontinuation, suspension, reduction or restriction of services, consistent with applicable statutes and regulations.

(ii) In accordance with Part 358 of this Chapter, applicants for or recipients of services and care have a right to a fair hearing to review the denial, discontinuation, suspension, reduction, restriction or adequacy of service/care or the failure to take timely action upon an application for service/care.

(iii) Title XX funded services are available to eligible individuals in every geographic area within the district. Where different services are made available to a specific category or individuals in different geographic areas, services are available to all eligible individuals in that category who reside in that area.

(3) Each social services district must assure implementation of each responsibility contained in Part 432 of this Subchapter concerning child protective services.

(4) Each social services district must assure implementation of each responsibility contained in Part 457 of this Subchapter concerning adult protective services.

(5) Each social services district must include in its plan a statement whether the following have been established for its protective services for adults program:

(i) a financial management system with written procedures;

(ii) the roles and responsibilities have been defined and written for the delivery of protective services for adults for the various divisions and offices of the social services district, including accounting, income maintenance, medical assistance, protective services for adults and all relevant services;

(iii) an interagency service delivery network has been developed with other appropriate agencies including, but not limited to, the Office for the Aging, the Department of Health, community mental health services, psychiatric center(s), legal services and appropriate law enforcement agencies, which at a minimum will:

(a) designate contact persons;

(b) establish referral procedures and follow-up mechanisms;

(c) indicate the locus of responsibility for cases with multi-agency needs; and

(d) include written policies and procedures and interagency agreements; and

(iv) a mechanism to ensure coordination between the protective services for adults and the post institutional services planning (PISP) programs.

(i) Summary of actions to address change in funds. According to the format provided by the department, each social services district must show how a change in the amount of funds available to the district for services provided under the plan would be addressed in that district.

407.6 Annual implementation report. According to a schedule to be determined by the commissioner, each social services district must submit an annual implementation report of the plan to the department. The report must include but not be limited to:

(a) a chart describing the organizational structure and staffing of the district as required in section 407.5(b) of this Part, if there have been any changes since the submittal of the plan;

(b) goals, objectives and activities as described in section 407.5(c) of this Part, including:

(1) Objectives and activities for child protective services, foster care, adoption, child preventive services, protective services for adults and two other services;

(2) Activities for those program procedures/functions which are required by federal or State law or regulation for which the district has stated in the plan it is not in compliance and continues to be in noncompliance;

(3) Activities addressing at least two of the program information items noted as not current practice in the plan and which continue to be not current practice;

(c) in a manner to be specified by the department, each social services district must address issues identified by the department in its analysis of economic and social indicators;

(d) if goals and objectives approved for the plan must be changed, an explanation of the reason(s) for this change;

(e) persons to be served and resources required to meet objectives as required by section 407.5(d) of this Part;

(f) income eligibility standards for services as required by section 407.5(f) of this Part;

(g) information on public participation in the planning process as required by section 407.5(g) of this Part;

(h) the signature of approval by the chief executive officer or the chairperson of the legislative body in those districts without a chief executive officer; and

(i) summary information on how the district will address changes in the amount of funds available to the district for services, if such changes occur, as required by section 407.5(i) of this Part.

407.7 Criteria for approval of plan and annual implementation reports. The plan and the annual implementation reports must be approved or disapproved by the commissioner of the State Department of Social Services. The criteria for approval are that the plan or report:

(a) complies with requirements of the planning process, including but not limited to those concerning public participation and submission dates;

(b) contains all required information including all required charts; and for the annual implementation reports, the signature of the chief executive officer or the chairperson of the legislative body in those districts without a chief executive officer;

(c) is internally consistent so that objectives and activities and projected expenditures are clearly related to district needs, and client and expenditure estimates are consistent with objectives and activities; and

(d) addresses those issues identified by the department pursuant to sections 407.5(c)(5) and 407.6(c) of this Part.

407.8 Procedures for review and approval of the plan and annual implementation reports. (a) Upon receipt of the plan or the annual implementation report, the department has 45 days to transmit a letter to the local commissioner which indicates approval or disapproval of all or certain components of the plan or annual implementation report. A letter of disapproval must indicate the criteria set forth in section 407.7 of this Part which the plan or annual implementation report did not meet, and the action necessary to qualify for approval. The letter must also notify the district that it must submit a revised plan or annual implementation report

or parts thereof within 30 days of receipt of a notice of disapproval of the whole or part of the plan or annual implementation report.

(b) Within 30 days of receipt of a notice of disapproval, the district must submit to the department a revised plan or annual implementation report or parts thereof.

(c) The department shall approve or disapprove the initial revision of the disapproved plan or annual implementation report within 15 days of receipt of such initial revision.

(d) The commissioner may grant extensions of time for resubmittal of plans or annual implementation reports, or permit additional revisions and resubmittals.

(e) No portion of the plan or annual implementation report can be finally disapproved until the district has had at least one opportunity to resubmit the plan or report.

(f) State reimbursement may be withheld for all or any portion of a district's activities if the plan, the annual implementation report or portions of either are disapproved.

(g) Any social services district aggrieved by a final disapproval of a plan or annual implementation report is entitled to a hearing in accordance with the applicable provisions of the Social Services Law and this Title. In the event of an adverse hearing decision, a social services district is entitled to judicial review pursuant to Article 78 of the Civil Practice Law and Rules. The withholding of reimbursement for expenditures incurred pursuant to disapproved portions of a district's plan or annual implementation report begins on the date of the final disapproval or a later date set by the department, and continues until the date on which the corrective action by the district is completed.

407.9 Monitoring of the plan and annual implementation reports. (a) On an ongoing basis, the department must monitor and review local plan implementation, and where it finds substantive noncompliance with the plan, the department may withhold reimbursement for claims submitted for services that are not in compliance with the plan. Such monitoring must focus on: achievement of activities and objectives as defined in the plan and annual implementation reports of each social services district, and compliance with applicable laws and regulations. Written monitoring reports must be prepared by the department on a regular basis.

(b) Any social services district aggrieved by a determination of the department to withhold reimbursement pursuant to this section is entitled to a hearing in accordance with the provisions of subdivision (g) of section 407.8 of this Part.

407.10 Amendments to the plan. A social services district may propose amendments to the plan at any time. If a reduction in services, a change in eligibility or a change in fees is proposed, the amendment must be published for public comment and be presented to the local advisory council for review, prior to submission to the department. If an amendment is approved

by the department, it becomes effective on the date so designated by the commissioner.

(Deleted material bracketed ; new material underlined).