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| LOCAL COMMISSIONERS MEMORANDUM |
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Transmittal No: 91 LCM-18

Date: February 8, 1991

Division: Commissioner's
Office

TO: Local District Commissioners

SUBJECT: Filed Regulation 360-3.3, 360-6.3 & 360-7.5

ATTACHMENTS: Attachment listed below
(Attachment 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 360-3.3, 360-6.3 & 360-7.5 relating to transitional medical assistance benefits.

Filed as an emergency rule - 7/27/90 - effective 7/27/90.

Refiled as an emergency rule - 10/25/90 - effective 10/25/90.

Refiled as an emergency rule - 12/24/90 - effective 12/24/90.

The final rule - Filed: 2/5/91 - Effective: 2/20/91.

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 366(4)(b)(ii) of the Social Services Law, I Cesar A. Perales, Commissioner of Social Services, do hereby repeal Sections 360-3.3(c)(1) and 360-3.3(c)(3), renumber Section 360-3.3(c)(2) as 360-3.3(c)(3) and Section 360-6.3 as 360-6.3(a), and add Sections 360-3.3(c)(1), 360-3.3(c)(2), and 360-6.3(b) 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: February 5, 1991

Signed: _____

Commissioner

This is to certify that this is the original of an order of the State Department of Social Services made on February 5, 1991 repealing Sections 360-3.3(c)(1) and 360-3.3(c)(3), renumbering Section 360-3.3(c)(2) as 360-3.3(c)(3) and Section 360-6.3 as 360-6.3(a), and adding Sections 360-3.3(c)(1), 360-3.3(c)(2), and 360-6.3(b) to 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
August 15, 1990.

Dated: February 5, 1991

Signed: _____

Commissioner

Paragraphs (1) and (3) of Section 360-3.3(c) are repealed.

Paragraph (2) of Section 360-3.3(c) is renumbered paragraph (3).

New paragraphs (1) and (2) are added to Section 360-3.3(c) to read as follows:

(1)(i) A family which becomes ineligible for ADC or HR will remain eligible for MA for an extended MA coverage period of six calendar months following the month of ADC or HR ineligibility if:

(a) the family became ineligible for ADC or HR on or after April 1, 1990;

(b) the family was eligible for ADC or HR in at least three of the six months immediately preceding the first month of ADC or HR ineligibility; and

(c) the family became ineligible for ADC or HR due to the caretaker relative's hours of employment or income from employment, or the loss of the \$30 plus one-third of the remainder earned income disregard or the \$30 earned income disregard, as provided in section 352.20 of this Title; and

(d) the family continues to have a dependent child.

(ii) When notifying a family of its ineligibility for ADC or HR for the reasons described in subparagraph (i)(c) of this paragraph, social services districts must give the family adequate notice of its rights to an extended MA coverage period under this paragraph, including notice of the reporting requirements for the additional extended MA coverage period under paragraph (2) of this

subdivision and the circumstances described in subparagraph (iii) of this paragraph.

(iii) Social services districts also must give the families receiving MA under this paragraph adequate notice of the option for an additional extended MA coverage period in both the third and sixth months of the extended MA coverage period.

(iv) Upon adequate notice to the family, the extended MA coverage period under this paragraph must be terminated at the end of:

(a) the first month in which the family ceases to include a dependent child; or

(b) the month in which the department determines that a family member fraudulently received ADC or HR in any of the six months prior to the extended MA coverage period, except that the termination of coverage will apply only to such family member.

(v) With respect to a child who would cease to receive MA as a result of a termination of coverage pursuant to clause (iv)(a) of this paragraph, the child's coverage may not be terminated until the social services district has determined that the child is not otherwise eligible for MA.

(2)(i) A family which received MA for the full six-month extended MA coverage period provided for under paragraph (1) of this subdivision may be eligible for an additional extended MA coverage period of six calendar months. In order to be eligible for the additional extended MA coverage period, the family must have submitted the first report required under subparagraph (ii) of this paragraph, or have good cause for failing to meet the reporting

requirement.

(ii) A family must report to the social services district the family's gross monthly earnings and the family's costs for child care, which were necessary for the employment of the caretaker relative. These reports must include earnings and costs for each of the three preceding months. The reports must be submitted no later than the 21st day of the fourth month of the extended MA coverage period and no later than the 21st day of the first and fourth months of the additional extended MA coverage period.

(iii) Social services districts must give families receiving MA coverage under this paragraph adequate notice of the reporting requirements of subparagraph (ii) of this paragraph in the third month of the additional extended MA coverage period.

(iv) Upon adequate notice to the family, the additional extended MA coverage period under this paragraph must be terminated at the end of:

(a) the first month in which the family ceases to include a dependent child;

(b) the month in which the department determines that a family member fraudulently received ADC or HR in any of the six months prior to the extended MA coverage period, except that the termination of coverage will apply only to such family member;

(c) the first or fourth month of the additional extended MA coverage period if the family fails, without good cause, to meet the reporting requirements set forth in subparagraph (ii) of this paragraph in either the first or fourth month of the additional

extended MA coverage period;

(d) the first or fourth month of the additional extended MA coverage period if the caretaker relative had no earnings in one or more of the previous three months, unless the lack of earnings was due to an involuntary loss of employment, illness, or other good cause; or

(e) the first or fourth month of the additional extended MA coverage period if the family's average gross monthly earnings during the previous three months, less the cost of child care necessary for the employment of the caretaker relative, exceed 185 percent of the federal income official poverty line applicable to the family's size.

(v) With respect to a child who would cease to receive MA as a result of a termination of coverage pursuant to clause (iv)(a) of this paragraph, the child's coverage may not be terminated until the social services district has determined that the child is not otherwise eligible for MA.

Section 360-6.3 is amended by renumbering the existing language as subdivision (a) and adding a new subdivision (b) to read as follows:

(b)(1) A social services district must offer to persons eligible for MA the option of membership in any health maintenance organization or other entity which offers comprehensive health services plans to persons residing within the district. This option must be provided unless the district is granted a waiver by the commissioner on the grounds that the organization or entity is not geographically accessible to eligible recipients who reside

within the district, the capitation rate is above the expected average fee-for-service cost within the district, or the entity refuses to enter into a contract with the district.

(2) Persons who, prior to becoming eligible for MA, are enrolled in a health maintenance organization or other entity offering a comprehensive health services plan must be offered the option of continuing that enrollment.

Section 360-7.5(g)(1) is amended to read as follows:

(1) on behalf of MA households eligible for ADC [or] , HR or extended MA coverage pursuant to paragraphs (1) and (2) of section 360-3.3(c) of this Part, for cost-effective, employer-sponsored group health insurance benefits. Such premiums will be paid for the benefit of the recipient's spouse and dependent children. [Nonemployer] Non-employer health insurance will be paid, in part or in full, when it would reduce the expense of providing MA services;

(Deleted material [bracketed]; new material underlined.)