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

Transmittal No: 92 LCM-170

Date: November 2, 1992

Division: Health & Long Term
Care

TO: Local District Commissioners

SUBJECT: DSS/OMRDD Home and Community Based Services Waiver (HCBS)

ATTACHMENTS: Attachment I: OMRDD Referral Form for Participation In
the HCBS Waiver [on-line]
Attachment II: OMRDD Division of Administration and Revenue Mngt. Field Office Staff Directory [not on-line]
Attachment III: OMRDD Notice of Decision [not on-line]

CONTACT PERSON: For additional information, contact Linda Kelly at
(518) 473-3827, User ID AW3250

PURPOSE

The purpose of this Local Commissioners Memorandum (LCM) is to inform social services districts of New York State's Home and Community Based Services (HCBS) Waiver for persons with developmental disabilities. In addition, this release is intended to describe local district administrative involvement regarding the following issues about the HCBS Waiver:

1. Identification of applicants;
2. Identification of recipients;
3. Medicaid (eligibility); and,
4. Funding of waiver recipients.

Please refer to informational letter (92-INF-33), which describes the HCBS Waiver and guidelines for the authorization of transportation for persons covered under Medical Assistance (MA).

BACKGROUND

New York State's application for a Home and Community Based Services Waiver (HCBS) for persons with developmental disabilities was approved by the Health Care Financing Administration on August 29, 1991 and was effective on September 1, 1991 in the following 11 counties:

Allegany	Nassau	Suffolk
Cattaraugus	Orange	Sullivan
Chautauqua	Putnam	Ulster
Dutchess	Rockland	

Federal approval to implement the Waiver in the rest of the state was effective January 1, 1992.

92-INF-33 describes in greater detail the eight additional services now available to HCBS Waiver participants, which are covered by the MA Program. They are:

Case Management	Prevocational Services
Residential Habilitation	Supported Employment
Day Habilitation	Adaptive Technologies
Respite	Environmental Modifications

The HCBS Waiver provides Medicaid funding for the above HCBS Waiver services which, in the absence of the Waiver, are Medicaid reimbursable only for persons admitted to an intermediate care facility for the mentally retarded (ICF/MR).

HCBS ENROLLMENT

To be approved for participation in the HCBS Waiver, a written application must be submitted to the OMRDD Developmental Disabilities Services Office (DDSO). The following is a summary of the enrollment process:

1. The individual submits an application to the DDSO.
2. The DDSO reviews the individual's waiver eligibility factors and capability to determine the need for an advocate for the purpose of service planning.

The DDSO reviews the following eligibility factors related to the individual:

- a. Developmental disability;

- b. ICF/MR level of care/eligibility;
- c. Potential Medicaid eligibility; and,
- d. Appropriate living arrangement: home, OMRDD congregate care level I family care, or OMRDD congregate care level II individualized residential alternative (IRA).

For an individual whose application indicates existing Medicaid coverage, the DDSO must verify this coverage.

- 3. The individual obtains an advocate, if appropriate.
- 4. The individual selects a case manager.
- 5. The individual and advocate prepare a Preliminary Individualized Service Plan.
- 6. The DDSO assesses the availability of services.
- 7. The DDSO documents the individual's choice of Waiver services over ICF/MR services.
- 8. The DDSO authorizes or denies the waiver application in a Notice of Decision (see attached).

LOCAL DISTRICT INVOLVEMENT

If the HCBS applicant is not Medicaid eligible at the time of filing the Waiver application with the DDSO, the following steps should occur:

- 1. The DDSO informs the OMRDD Revenue Management Field Office staff (RMFO) that the HCBS Waiver enrollee must file for Medicaid with the local Department of Social Services (LDSS). In addition, a referral letter prepared by the RMFO staff (sample attached) will be given to the Waiver enrollee to be presented to the LDSS.
- 2. The RMFO staff will contact the local district office and make arrangements for an MA appointment for the HCBS enrollee and his/her family, if appropriate.
- 3. The Medicaid eligibility process will be performed pursuant to the most advantageous method available to the family, including a determination of disability and a determination of eligibility for the three month retroactive period, if appropriate, with the following exceptions:

- a. Children who are certified blind or disabled under the age of 18 living at home who are found to be ineligible for Medical Assistance under these rules will have his/her MA eligibility determined by disregarding parental income and resources and applying only the child's income and resources to the MA level for one.
- b. Children who are certified blind or disabled under the age of 18 expected to live outside the parental home for less than 30 days (in one of the appropriate living arrangements) who are found to be ineligible under these rules will have their eligibility determined by disregarding parental income and resources and applying only the child's income and resources to the appropriate congregate care level for one.

NOTE: If the child is not certified blind or disabled, he/she will not be eligible to participate in the Waiver.

In all instances, social services districts shall provide the applicant(s) with appropriate notices regarding his/her application for MA, including the DSS 4141, "Notice of Medical Assistance Disability Determination".

NOTE: If MA eligibility is approved and the person is accepted for participation in the HCBS waiver program, the enrollment date in the HCBS waiver will be the same as the MA eligibility date indicated on the MA acceptance letter.

4. After a determination has been made by the social services district regarding Medicaid eligibility, the district will send a copy of the "Notice of Decision on your Medical Assistance Application" (DSS-3622) to the RMFO. The RMFO will then contact the DDSO advising them of this decision.
5. When all of the above steps have been taken, the DDSO, by agreement with the State Department of Social Services, shall issue a Notice of Decision (i.e., authorization or denial) regarding the individual's eligibility for participation in the HCBS Waiver. The Notice of Decision will also advise the person and his or her advocate of the right to have the decision administratively reviewed by OMRDD. A copy of the Notice of Decision will be sent to the social services district office. A copy of this notice is attached.

PAYMENT

Reimbursement for this program is dependent upon individual circumstances (i.e.; eligibility for State charge status as 621 eligible, overburden

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reimbursement, etc.) Only for individuals living at home and not otherwise eligible for State charge status or overburden will there be a local share charged. Informational Letter 89-43 provides detailed information regarding Human Services overburden and 621 eligibility.

Gregory M. Kaladjian
Executive Deputy Commissioner

(Date)

(Revenue Management Field Office)

(Address)

Dear Local Social Services District:

This is to notify you that _____ is an applicant for the Department of Social Services/Office of Mental Retardation and Developmental Disabilities (DSS/OMRDD) Home and Community Based Services (HCBS) Waiver and has not yet been determined to be Medicaid eligible.

Participation in the HCBS Waiver is contingent in part upon the individual being eligible for Medical Assistance (MA). Please note that under the HCBS Waiver, MA can be provided without regard to parental income and resources.

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Please determine this person's Medicaid eligibility and send this office a copy of your decision.

The OMRDD Developmental Disability Services Office (DDSO) upon receiving a notice of acceptance for MA, will complete enrollment for this person and advise you of this individual's enrollment in the HCBS waiver.

This person is Chapter 621 eligible: +-+ +-+
 +-+ Yes +-+ No

Inquiries regarding this individual may be made to _____, Resources and Reimbursement Agent by calling _____.

Sincerely,

LDSS MA appointment information:

LDSS office: _____

Date: _____
Time: _____