ADMINISTRATIVE DIRECTIVE

TRANSMITTAL: 92 ADM-50

DIVISION: Health and Long Term Care

TO: Commissioners of Social Services

DATE: December 1, 1992

SUBJECT: Fiscal Assessment and Management of Home Health Services

SUGGESTED DISTRIBUTION: Medical Assistance Staff
Home Care Staff
Staff Development Coordinators
Certified Home Health Agencies

CONTACT PERSON: Any questions concerning this release should be directed to Ms. Mary Jane Conroy, or Ms. Marge Rokjer, Division of Health and Long Term Care, at 1-800-342-3715, extension 3-5565 or 3-5567.

ATTACHMENTS: See page 3, Table of Contents, for a list of attachments. All attachments are available on-line.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		505.23	367-j Section 22 of Chapter 165 of the Laws of 1991		

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ATTACHMENTS:

I. PURPOSE

This Directive transmits to social services districts and certified home health agencies (CHHAs) requirements for the fiscal assessment and management of home health services provided to Medical Assistance (MA) eligible individuals.

The revised regulations in 18 NYCRR 505.23 and the provisions discussed in this Directive define and clarify the roles of the social services district and the CHHA in the management and fiscal assessment of home health services pursuant to Section 367-j of the Social Services Law (SSL), as added by Section 22 of Chapter 165 of the Laws of 1991 and amended by Sections 68-70 of Chapter 41 of the Laws of 1992.

II. BACKGROUND

In recent years New York State's expenditures for all long term care services have increased dramatically. Home care program costs have risen from $445 million in State Fiscal Year (SFY) 1982-83 to an expected $2.4 billion in SFY 1991-92. The need for some reasonable fiscal accountability is clear. In SFY 1991-92 expenditures for certified home health agency services alone, have reached $400 million and continue to increase at a rate of 19.5% annually.

The present system, which has allowed a high level of flexibility by CHHAs and social services districts, contains insufficient structure for evaluating alternative options for the provision of home care services to recipients and for assessing recipients for the cost effectiveness of home care as opposed to institutionalization.

Projections of cost growth of home care services, demographic increases in the number of persons seeking home care, as well as future work force limitations have brought a new urgency to the search for more cost effective ways to provide needed services. Cost containment proposals discussed have included replacing traditional service delivery models with new technology, controlling the growth of high cost cases, and eliminating some services entirely. CHHAs across the State have reacted to recent cost containment proposals targeted at controlling long term CHHA cases, indicating that they as providers of the service are in the best position to determine the most cost effective means of meeting the client's needs. They have argued convincingly that any management system developed to address these high cost cases should be provider based. The legislation enacted in Section 22 of Chapter 165 of the Laws of 1991 and Section 367-j of the SSL recognize that capability. The fiscal assessment and management requirements of this Directive are provider-based. Yet, they also strengthen the role of the social services district by providing the framework necessary for a more collaborative relationship between the provider of the service, the CHHA and the payer, the MA program.

III PROGRAM IMPLICATIONS

These regulatory changes represent a significant policy shift from one based solely on the district's responsibility to prior authorize all home health services to a much more provider-based management system. This new policy recognizes the expertise and professional judgement of CHHA staff and allows them the opportunity to make judgements regarding not only the most appropriate type of long term care needed, but also the most cost effective. It also allows social services districts to better target their efforts at managing home care services. As the CHHA assumes these responsibilities, it becomes even more critical that the district and the CHHA have a close collaborative relationship. The social services district and the CHHA must establish local procedures which foster productive and ongoing communication. These regulatory changes require the district and the CHHA to work closely together to establish forms and procedures which allow each entity to accomplish its tasks in the most efficient manner.

The notification requirements and the district's obligations for review and oversight of CHHA management and fiscal assessment determinations will enhance the ability of the social services district to control and manage all long term care services. In the past, social services districts often have been totally unaware of the amount, scope, and duration of home health services being provided. In some instances, this has resulted in the recipient receiving both home health and personal care services without the district's knowledge or approval.

For all social services districts there will be new emphasis on their role as payer for CHHA services and the need to act as prudent buyer. For social services districts who currently have close working relationships with the CHHAs in their district, the impact of implementing these requirements should be minimal. Districts who have not had such a relationship, or for whom the relationship has been adversarial, may find implementation more problematic. Such districts will need to establish liaisons with the CHHA and work to redefine the relationship.

IV. REQUIRED ACTION

In order to comply with the provisions of SSL Section 367-j and 18 NYCRR 505.23, the following actions are required:

A. MEDICAL NECESSITY AND HEALTH AND SAFETY

The MA program will pay for home health services only when such services are medically necessary and when a determination has been made, in accordance with regulations promulgated by the State Department of Health, that the recipient's health and safety can be maintained in the home. The decision that a recipient's health and safety in the home can or cannot be assured by the provision of home health services must be based, at least in part, on the following:

- the degree to which the recipient's medical condition is unstable;

- the recipient's physical or mental ability to summon help by any means;
- the extent to which the recipient exhibits at-risk behaviors;
- the existence of conditions in the home which would imminently threaten the safety and welfare of staff, including but not limited to physical abuse of staff by the recipient or informal supports or the conduct of illegal activity in the home;
- the ability of the recipient to be self-directing;
- the specific functions and tasks needed by the recipient;
- the judgement and belief based on previous experience with the delivery of home care to the recipient, that the recipient is known to repeatedly refuse to comply with an agreed upon plan of care and such non-compliance will lead to an immediate deterioration in the recipient's condition or an ineffective plan of care; and,
- the degree to which the recipient has informal supports who are able, willing, and available to provide direction of care and make decisions for the recipient when needed or provide essential care in the absence of agency staff.

If there is any question about the recipient's self-directing capability, a mental health evaluation addressing the recipient's capability to make decisions and to understand the consequences of those decisions should be obtained. If a recipient is determined to be non self-directing, and there is no one else willing and able to assume responsibility for the recipient's care, the Protective Services for Adults program must assume primary responsibility for the supervision and direction of the recipient in order to assure that the recipient's needs are met, in accordance with the provisions of 90-ADM-40. The Department and the State Health Department are currently reviewing all health and safety guidelines.

B. REFERRAL TO HOSPICE

The CHHA must determine whether the recipient is appropriate for hospice services. Generally, recipients with a life expectancy of six months or less, and who require or desire supportive or palliative care only are eligible for hospice services. Unless medically contraindicated by the recipient's physician, the CHHA must notify the recipient of the hospice services available in the district. If the recipient chooses to receive hospice services, the CHHA must assist the social services district in referring the recipient to hospice services.

Chapter 41 of the Laws of 1992 further requires that a written agreement exist between the CHHA and every hospice in the CHHA's service area, in order to assure this referral process. The written agreement, at a minimum, must contain the procedures for notifying recipients believed appropriate, of the availability of hospice services and for referring those individuals interested in referral. A model "Memorandum of Agreement" for CHHAs to use has been developed and is included as Attachment # 10 of this directive.

C. CONSIDERATION OF EFFICIENCIES

As part of the comprehensive assessment or re-assessment the CHHA is required by Department of Health regulations to conduct for each recipient, the CHHA will now also be required to consider certain other services or service delivery models which may be more efficient or more cost effective. If the CHHA determines that one or more of these services or service delivery models is appropriate and could be delivered cost effectively, the CHHA must incorporate use of these options in the development of the recipient's plan of care. Under such circumstances, the recipient is required to use these services or service delivery models in lieu of home health services to achieve the maximum reduction in the need for home health services or other long term care services.

The efficiencies which must be considered to determine if the recipient's needs can be met more appropriately and cost effectively, include the following:

- Patient Managed Home Care;
- Personal Emergency Response Services (PERS);
- Shared Aide;
- Personal Care or an appropriate substitute,
- Adult Day Health Program;
- Long Term Home Health Program, Assisted Living Program, Enriched Housing; and,
- Specialized Medical Equipment, such as Insulin Pens.

Social services district and CHHA staff involved in either conducting or reviewing the comprehensive assessment must be familiar with the eligibility requirements and program restrictions associated with these services and service delivery models. Attachment # 7 of this Directive is a matrix of these efficiencies which describes the client eligibility factors and program characteristics for each efficiency. A recipient's eligibility for the efficiencies summarized in Attachment # 7 must be determined under the applicable regulations for each particular service, service delivery model or program listed. The attachment is to be used as a reference, not a substitute, for the eligibility criteria established in regulations for each service, service delivery model or program.

Social services districts may wish to develop a district specific matrix that outlines the following:

- the long-term care resources available in the district;
- eligibility requirements;
- program restrictions, i.e., waiting lists, service area; and,
- name and telephone number of person to contact to arrange service.

At times it may be necessary to verify whether certain specialized medical equipment is reimburseable under the MA program or how a provider should bill a particular item. In such instances, district or CHHA staff should contact Linda Miller in the Division of Medical

Assistance, Bureau of Primary Care at 1-800-342-3715, extension 3-5568, in order to obtain the required information.

The health and safety of the recipient remains the overriding concern when considering the use of one or more of the efficiencies. If the use of an efficiency would jeopardize the recipient's health and safety, it must not be considered. However, in certain cases, it may be possible to use new technology or less labor intensive service delivery models to achieve cost efficiency without any adverse effect on the recipient. For example, an elderly diabetic recipient with poor eyesight, and in need of a therapeutic diet, and having an unsteady gait due to on-going circulatory problems, may have a physician's order completed which identifies that the recipient needs a daily nursing visit for an insulin injection and safety monitoring. However, the CHHA may, after evaluating this recipient, determine that the recipient's safety monitoring needs could be effectively met through use of Personal Emergency Response Services (PERS), and that the pre-set insulin pen could reduce the recipient's need for a daily nursing visit to bi-weekly nursing visits. If inclusion of the two efficiencies in the recipient's plan of care can maintain the recipient's health and safety, and the recipient meets the eligibility criteria for each efficiency, then inclusion of the efficiencies is appropriate and will result in cost savings.

D. RECIPIENTS FOR WHOM THE CHHA MUST CONDUCT AN INITIAL FISCAL ASSESSMENT

An initial fiscal assessment is required for every case in which the CHHA reasonably expects it would authorize the MA recipient to receive home health services for more than 60 continuous days during an initial authorization period, regardless of the number of days per week or hours per day that the CHHA would authorize the MA recipient to receive services during such 60 day period. The CHHA is required to perform fiscal assessments for MA recipients who are not currently receiving home health services as well as for MA recipients who are currently receiving home health services, as specified below:

1. MA recipients not currently receiving home health services

When a CHHA conducts the comprehensive assessment of an MA recipient and determines that home health services are medically necessary and can maintain the MA recipient's health and safety in the home, the CHHA must also determine whether the MA recipient is likely to require home health services for more than 60 continuous days during the initial authorization period. This requirement does not mean that the recipient is likely to require home health services for each day of a continuous 60 day period. Rather, this requirement means that the MA recipient would be accepted by the CHHA for more than 60 continuous days regardless of the number of hour per day or days per week that the recipient would actually receive home health services during this 60 day period. When the CHHA reasonably expects it would authorize the recipient to receive home health services for more than 60 continuous days during the

initial authorization period, regardless of the frequency at which the recipient would actually receive services during such period, the CHHA must conduct a fiscal assessment as part of its comprehensive assessment of the recipient's appropriateness for home health services.

2. MA recipients currently receiving home health services:

When a CHHA commenced the provision of home health services to an MA recipient and did not reasonably expect that it would authorize the recipient for home health services for more than 60 continuous days during the initial authorization period, but the CHHA, prior to the 60th continuous day of the initial authorization period, reasonably expects that the recipient should be authorized for home health services for more than 60 continuous days, the CHHA must perform an initial fiscal assessment prior to the 60th continuous day of the initial authorization period. Again, the requirement that the recipient would be authorized for more than 60 continuous days does not mean that the recipient would necessarily receive services for each day of a continuous 60 day period.

E. RECIPIENTS FOR WHOM THE CHHA IS NOT REQUIRED TO CONDUCT A FISCAL ASSESSMENT

Recipients receiving home health services through a Long Term Home Health Care Program, an AIDS Home Care Program, a Foster Family Care Demonstration Program, a Chronic Care Management Demonstration Program, or a model waiver authorized in accordance with subdivision (6) or (7) of Section 366 of the Social Services Law or provided under a program licensed, operated or certified by OMRDD or OMH are not subject to the fiscal assessment requirements.

Further, if the MA recipient is or will be receiving home health services in combination with personal care services and/or private duty nursing services, the responsibility for conducting the fiscal assessment and management activities will remain with the social services district. Complete instructions for handling these joint cases are included in 92-ADM-49 Fiscal Assessment and Management of Personal Care Services. The Directive on the Fiscal Assessment and Management of Private Duty Nursing Services will be released at a future date.

F. FISCAL ASSESSMENTS

The fiscal assessment is a comparison of the estimated average monthly cost of the home health services a recipient will require over 12 months to 90 percent of the average monthly cost of residential health care facility services (RHCF) in the district. The 90 percent target figures have been calculated by the Department for each social services district and are listed in Attachment # 1. Fiscal assessment, in effect, means costing out all those services included in the care plan that can be defined as home health services, i.e., home health aide services, nursing visits, and physical therapy, occupational therapy or speech pathology. The cost of therapies is included in the fiscal

assessment whether they are provided in the home or at another site such as an office or out-patient department. Services not considered in the fiscal assessment include, but are not limited to: durable medical equipment, PERS, drugs, physician visits, and medical transportation. In cases where a portion of the services can be billed to Medicare or other third-party payers, it is important to note that only those costs which will be billed to the MA program must be included in the fiscal assessment calculations.

1. Fiscal Assessment Methodology

To conduct a fiscal assessment, the CHHA must do the following:

a. Use a 12 month period; to determine the 12 month period the CHHA must count prospectively either from the date the recipient is initially authorized or reauthorized for services or, if the case involves Medicare or other third party billing, from the date of the first service to be billed to the MA program;

b. Consider only those home health services the recipient requires that will be paid for by the MA program;

c. Estimate the number of hours or visits of each home health service the recipient will require over the next 12 months; multiply by the average MA rate for each service, as provided by the Department in Attachment # 9, Schedule D of this Directive; add the products, and divide by 12 to determine the average monthly cost of the home health services; and,

d. Subtract the amount of the recipient's monthly excess income and resources, if any, (spend-down) from the total monthly cost of services;

e. Compare the average monthly cost of the home health services to 90 percent of the average monthly cost of RHCF services in the district, as provided by the Department.

Attachment # 6 of this Administrative Directive is the Fiscal Assessment Worksheet which was developed to simplify the fiscal assessment process and must be completed for each recipient with service needs likely to exceed 60 days. However, for CHHAs and districts with access to a personal computer, the Department is developing a Lotus 123 spreadsheet for each district. The spreadsheet, which will be available to both social services districts and CHHAs upon request, includes protected fields which contain the district specific rate information to be used in calculations for the fiscal assessment. The CHHA staff will be required to enter recipient identifying information and the units of service for each home health service included in the care plan. All mathematical calculations and comparison to RHCF costs in the district will be computed automatically. District specific rate information used in calculating the fiscal assessments will be

periodically updated and transmitted by the Department to the districts.

2. Time-frames For Fiscal Assessments

The CHHA must conduct a fiscal assessment at the following times:

a. immediately at the time of the initial assessment of care needs, if the CHHA reasonably expects the recipient will require home health services for more than 60 continuous days during an initial authorization period; or,

b. no later than the 60th continuous day, of the initial authorization period, if the CHHA did not reasonably expect the recipient to require home health services for more than 60 continuous days, but the recipient does subsequently require such care;

c. immediately during the periodic reassessment occurring during the sixth month the case is open and after each subsequent six month period; and,

d. immediately any time the recipient's medical condition, mental status or other circumstances change resulting in:

(1) a significant (more than 25% greater than the previous fiscal assessment) increase in the average monthly cost of home health services; or

(2) a change in the recipient's eligibility under one of the Exception Criteria discussed in Section G of this Directive. This means that a CHHA must conduct a new fiscal assessment for a recipient who was eligible for home health services because he or she met at least one exception criteria when the recipient's condition or circumstances have changed so that he or she may no longer meet any exception criteria.

Any time the CHHA conducts a fiscal assessment it must submit the results of the fiscal assessment, along with any other required information specified in Section I of this Directive, to the social services district within five (5) business days.

Implementation of the fiscal assessment process will be phased-in. On the effective date of this Directive all new cases will be required to comply with the provisions of this Directive. Undercare cases will be subject to the fiscal assessment process at the next scheduled patient re-assessment conducted by the CHHA or as soon as a change in the recipient's condition necessitates a change in service delivery.

3. Development of Local Procedures

Once the CHHA has made its initial assessment of care needs, developed the care plan, and determined that the case is likely to

require care for more than 60 days, the fiscal assessment must be completed. While there are no restrictions as to the CHHA staff who may conduct a fiscal assessment, there is a requirement that all fiscal assessments be reviewed by someone in the CHHA other than the individual who determined the recipient eligible and appropriate for home health services.

The CHHA must develop local procedures for the conduct of the fiscal assessment which are acceptable to the social services district. These procedures should be developed jointly and at a minimum should address and/or define the following:

- o the individual(s) in the CHHA responsible for the completion of the fiscal assessment;
- o the individual(s) in the CHHA responsible for the final review and sign-off on the fiscal assessments;
- o the unit(s) in the social services district responsible for receiving the fiscal assessments and answering questions on specific cases or general procedures dealing with fiscal assessments;
- o the procedures for case conferencing when the CHHA and the social services district disagree on the results of the fiscal assessment; and,
- o the division of tasks involved in arranging for other appropriate long term care services, including care in a RHCF.

4. Results of the Fiscal Assessment

a. Cost is Equal to OR Less Than 90% of RHCF Costs

If the average monthly cost of home health services the recipient will require is equal to or less than 90% of the average monthly RHCF cost in the district, as determined by the Department, the CHHA must:

(1) notify the district, as specified in Section I of this Directive; and,

(2) provide or continue to provide home health services to the recipient, as long as the services are medically necessary and can maintain the recipient's health and safety in the home.

It is important to remember that even in situations where the cost is less than 90% of average monthly RHCF costs, the case must include documentation that the efficiencies were considered as part of the care plan development. Use of one or more of the efficiencies may result in significant cost reductions even in these cases.

b. Cost Exceeds 90% of RHCF Costs

If the estimated average monthly cost of the home health services the recipient will require would exceed 90% of the RHCF cost in the district, as determined by the Department, the CHHA must determine whether the recipient meets at least one exception criterion, as specified in Section G of this Directive.

G. EXCEPTION CRITERIA

When the results of the fiscal assessment indicate that the average monthly cost of home health services that the CHHA reasonably expects a recipient will require for 12 months would exceed 90% of the average monthly cost of RHCF costs, the CHHA must conduct a review and determine whether the recipient meets at least one exception criterion. The five (5) exception criteria are as follows:

1. the recipient is not medically eligible for RHCF services or other long-term care services, including other residential long-term care services or other non-residential long-term care services;

2. home health services are cost-effective when compared to the costs of other long-term care services appropriate to the recipient's needs as outlined below:

   a. for a recipient who would otherwise be placed in a general hospital, the assessor must compare the average monthly costs of the home health services that the assessor reasonably expects the recipient will require for 12 months to the average monthly costs of care in a general hospital as determined by the Department of Health. The average monthly costs of care in a general hospital are determined by the Department of Health by adding the payments made to all general hospitals in the region for the diagnostic-related group (DRG) in which the recipient would be classified, dividing such result by the sum of the group mean lengths of stay for persons classified in such DRG, multiplying such result by 365 and further dividing such result by 12. The figures to be used in this comparison are listed in Attachment # 9, Schedule A of this Directive;

   b. for a recipient who would otherwise be placed in an intermediate care facility for the developmentally disabled, the assessor must compare the average monthly costs of the home health services that the assessor reasonably expects the recipient will require for 12 months to the regional rate of payment for care in an intermediate care facility for the developmentally disabled, as determined by the Department in consultation with the Office of Mental Retardation and Developmental

Disabilities. The figures to be used in this comparison are listed in Attachment # 9, Schedule B of this Directive;

c. for a recipient who would otherwise be placed in an RHCF, the assessor must compare the average monthly costs of the home health services that the assessor reasonably expects the recipient will require for 12 months to the average monthly costs, in the social services district, of RHCF services provided to recipients assigned to the same resource utilization group to which the recipient would be assigned. The figures to be used in this comparison are listed in Attachment # 9, Schedule C of this Directive; and,

d. for a recipient who would otherwise be placed in other residential long-term care services or other non-residential long-term care services, the assessor must compare the average monthly costs of the home health services that the assessor reasonably expects the recipient will require for 12 months to the average monthly costs, as determined by the Department, of such other residential long-term care services or non-residential long-term care services. The figures to be used in this comparison will be determined by the CHHA in consultation with the social services district, on a case by case basis;

3. the recipient is:

a. employed, which means that the recipient is engaged in a work activity that involves significant physical or mental activities for pay or profit, regardless of whether a profit is actually realized. Whether a recipient is employed is determined in accordance with the federal regulations for determining substantial gainful activity under Title II of the federal Social Security Act, as codified in 20 CFR 404.1571 through 404.1576 (20 CFR Parts 400-499, revised annually as of April 1, is published by Office of Federal Register, National Archives and Records Administration, and is available for public use and inspection at the Depaartment of Social Services, 40 N. Pearl St., Albany, New York 12243);

b. enrolled in an educational program approved by a committee on pre-school special education established in accordance with Section 4410 of the Education Law, a committee on special education established in accordance with Section 4402 of the Education Law, or the State Board of Regents; or

c. the parent or legal guardian of a child who lives with the recipient and who is:

(1) younger than 18 years of age;

(2) younger than 21 years of age and enrolled in an educational program approved by the State Board of Regents; or

(3) 18 years of age or older and blind or disabled, as determined in accordance with Subpart 360-5 of Part 360 of this Title; or

d. blind or disabled, as determined in accordance with Subpart 360-5 of Part 360 of this Title, and would remain hospitalized or require long-term hospitalization without home health services;

4. home health services are most appropriate for the recipient's functional needs, and institutionalization is contraindicated, based on a review, by the CHHA of the recipient's medical history. The review must include a certified statement from the recipient's physician, on a form required by the Department and the Department of Health (Attachment # 11), that describes the potential impact of institutionalization on the recipient's ability to perform activities of daily living (ADLs). The form must be reviewed by an RHCF to determine if institutionalization would result in a diminishing of the recipient's ability to perform the ADLs. (The CHHA is responsible for sending Attachment # 11 to the recipient's physician. If the physician certifies that the recipient's ability to perform ADLs would diminish as a result of the recipient's placement in an RHCF, the CHHA is then required to send Attachments # 11 and # 12, along with the physician's order form, to the reviewing RHCF.); or

5. the recipient lives with another person who the CHHA determines would need services if the recipient were institutionalized, and the CHHA determines that the costs of services for the recipient and the costs of services for such other person, if either or both were institutionalized, would equal or exceed the costs of home health services for the recipient and the costs of any services for such other person.

H. ACTION TO BE TAKEN AS A RESULT OF THE EXCEPTION CRITERIA REVIEW

1. Recipient Meets at Least One of the Exception Criteria

If the CHHA determines that the recipient meets at least one exception criterion, the CHHA must:

a. notify the social services district of its determination within five (5) business days; and,

b. provide or continue to provide home health services even though the cost is expected to exceed 90 percent of the average monthly cost of RHCF care, provided that home

health services are medically necessary and can maintain the recipient's health and safety in the home.

CHHAs only need to determine that a recipient meets one of the five exception criteria. In situations where it appears that a recipient would likely meet more than one exception criteria, the CHHA should pursue validation of the exception criteria which has the least cost and/or administrative burden associated with it. For instance, exception criteria #2 requires completion of a PRI, which has significant costs associated with it, and exception criteria #4 requires multiple supporting documentation from various sources, whereas a determination that the recipient qualifies under exception criteria #3 has minimal time involved and no additional cost associated with the determination.

2. Recipient Does Not Meet at Least One of the Exception Criteria

If the CHHA determines that the recipient does not meet at least one exception criterion, the CHHA must:

a. notify the social services district, the recipient and the recipient's physician within five (5) business days and continue to provide home health services to the recipient ONLY if the recipient has been receiving home health services and then ONLY until other appropriate long-term care services for which the recipient is medically eligible are available; and,

b. if the CHHA has already commenced service delivery, assist the social services district as specified in the CHHA's agreement with the social services district discussed in Section L of this Directive to determine the recipient's medical eligibility for other long-term care services and to arrange for the delivery of such services to the recipient.

In these situations where the recipient does not meet any of the exception criteria it may be beneficial for the CHHA to again consider the use of the efficiencies. It may be possible, by utilizing one or more of the efficiencies, to reduce the costs to 90% of RHCF costs and yet still meet the recipient's care needs appropriately. For example, if the fiscal assessment shows the care needs costing $100.00 per month more than 90% of the average monthly RHCF costs it may be possible to use a PERS unit to reduce the number of home health aide hours sufficiently to bring costs under the 90% target and still meet the recipient's needs.

I. NOTIFICATION REQUIREMENTS

1. Notification To Social Services District

The CHHA must notify the social services district whenever it conducts a fiscal assessment of a MA recipient. This notice must

be sent to the social services district within five (5) business days after the CHHA conducts a fiscal assessment. The CHHA and the social services district must develop procedures in a form acceptable to the district to ensure the CHHA notifies the district of the following:

- o the name of EACH recipient for whom the CHHA has conducted a fiscal assessment;
- o the CHHA's determination of whether the recipient's health and safety can be maintained in the home and whether home health services are medically necessary;
- o the results of the fiscal assessment the CHHA has conducted for each recipient including the CHHA's determination whether the recipient meets at least one exception criterion;
- o the amount, scope and duration of home health services the CHHA has provided or will provide to the recipient; and,
- o the comprehensive assessment or reassessment, or a summary of the comprehensive assessment or reassessment that the CHHA is required to conduct for each recipient including evidence that the efficiencies were considered in the development of the care plan.

2. Notification to the Recipient and Physician

The CHHA is required under Department of Health regulations to notify the recipient and the recipient's physician of any changes in the plan of care. Under 505.23, the CHHA must also inform both the recipient and the recipient's physician of the results of the fiscal assessment, including any determination to refer the recipient to other appropriate long-term care services and that the CHHA has referred the recipient's case to the social services district.

J. SOCIAL SERVICES DISTRICT RESPONSIBILITIES

1. Review and Approval Activities

a. When the social services district receives the notice described above from the CHHA, it must within 10 business days:

- o provide for reviews of the fiscal assessments and other documentation;
- o conduct case conferences with the CHHA, as necessary, to achieve consensus or agreement;
- o refer the recipient's case to the local professional director or designee if the district disagrees with

the determination of the CHHA and agreement cannot be reached through case conferencing.

b. The social services district will receive notification from the CHHA on each fiscal assessment conducted. Depending on the volume of fiscal assessments the district receives it may prove beneficial to sort them into the following categories and focus the more in-depth review activities on the latter two categories. The social services district must describe its review process in the implementation plan (Attachment # 2).

Fiscal assessments can be sorted into three (3) distinct categories:

(1) fiscal assessments on individuals for whom care needs go over the 60 days, but for whom costs are at or below 90% of RHCF costs;

(2) fiscal assessments on individuals for whom costs exceed 90% of RHCF costs, but who meet at least one exception criterion;

(3) fiscal assessments on those individuals whose costs exceed 90% of RHCF costs and who fail to meet at least one exception criterion.

c. Any review conducted by the social services district of a CHHA'a fiscal assessment must include the following determinations:

- whether home health services are cost effective;
- whether the efficiencies were considered during the development of the care plan;
- whether the recipient meets at least one exception criterion;
- whether the CHHA must continue to provide home health services to the recipient;
- whether the CHHA must modify the amount, duration or scope of home health services provided to the recipient; and,
- whether the recipient must be referred to other appropriate long-term care services.

2. Qualifications of Social Services District Staff

Since it is imperative that staff in both the CHHA and the social services district share a common understanding of the issues involved in the assessment process and care plan development activities and because effective communication is critical to

achieve the cost containment and efficiency goals of the fiscal assessment process, minimum qualifications have been established for social services district staff reviewing fiscal assessments submitted by CHHAs.

The social services district review activities must be conducted by one of the following persons:

a. a registered professional nurse who has experience in home care; or

b. a qualified social worker as defined in regulations by the Department of Health (a person who holds a Master's degree in social work and who is certified or licensed by the State Education Department); or,

c. if no such registered nurse or qualified social worker is employed by the district, and district specific conditions or circumstances would preclude the district from employing or contracting with such a person, a person for whom the social services district has received the Department's approval to review fiscal assessments.

Social services districts choosing option c, must attach their request for Department approval to do so to Attachment # 2 of this Directive, The Fiscal Assessment Implementation Plan.

3. Actions Which May Be Taken During The Social Services District Review

The social services district may, during the course of its review of the fiscal assessment, deem it necessary to take one or more of the following actions:

a. require the CHHA to provide additional information or documentation regarding the home health services recipient and the amount, duration or scope of services provided to the recipient;

b. after consultation with the recipient's physician, independently assess whether the home health services are medically necessary, and can maintain the recipient's health and safety in the home;

c. independently conduct a fiscal assessment of the home health services the recipient requires, which must include a consultation with the recipient, the recipient's family, or both regarding the proposed plan of care. This fiscal assessment must comply with the requirements of this Directive for fiscal assessments conducted by certified home health agencies; or,

d. request that the CHHA reassess the recipient's home health care needs to determine if a plan of care that is medically appropriate and can maintain the recipient at

home can be provided to the recipient at an average monthly cost that is at or less than 90% of the average monthly RHCF costs in the district.

4. Actions To Be Taken As a Result of The Social Services District Review of Fiscal Assessments

After the social services district reviews the fiscal assessment conducted by the CHHA and within 10 days of receipt of the notice from the CHHA, the social services official must discuss the results of the district's review with a representative of the CHHA and recommend whether the CHHA should continue to provide home health services to the recipient; or whether the CHHA should modify the amount, duration, or scope of home health services provided to the recipient; or whether the recipient must be referred to other long-term care services.

a. Social Services District and CHHA Agree

If the social services official and the CHHA representative agree that home health services must be provided or must continue to be provided to the recipient and that the amount, duration, and scope of home health services that the CHHA recommends are appropriate or must be modified, the CHHA must consult with the recipient's physician and provide, continue to provide or modify such services provided that the services continue to be medically necessary, and can maintain the recipient's health and safety in the home.

If the social services district and the CHHA agree that the recipient must be referred to other appropriate long-term care services, the CHHA must consult with the recipient's physician and if home health services have commenced, continue to provide home health services to the recipient only until such time as other appropriate long-term care services for which the recipient is medically eligible become available.

b. Social Services District and CHHA Disagree

If the social services district and the CHHA disagree whether home health services must be provided or continue to be provided to the recipient; whether the amount, scope or duration of home health services provided are appropriate or must be modified; or whether the recipient must be referred to other appropriate long-term care services, the social services district must refer the case to the local professional director or a physician designated by the local professional director.

The documentation the social services district must send to the local professional director or designee must include, but is not limited to the following:

(1) the physician's order form;

(2) the comprehensive nursing assessment;

(3) the fiscal assessment; and,

(4) the assessment of efficiencies.

c. The Role of the Local Professional Director

The local professional director or his or her designee (See 78-ADM-50 "Local Professional Director in Home Care Services" for a complete description of the role of the local professional director and who may act as his or her designee) must, within 10 business days of receiving a case, review the CHHA's fiscal assessment and all other pertinent documentation and make a final determination of the following, and notify the social services district and the CHHA of such determination:

- o whether the average monthly cost of the recipient's home health services would exceed 90% of RHCF costs in the district, as determined by the Department;
- o whether the recipient meets at least one exception criterion; and,
- o whether the CHHA must provide or continue to provide services, modify the amount, scope or duration of services or refer the recipient to other appropriate long term care services.

When the final determination of the local professional director or his or her designee results in a reduction in the amount, scope or duration of the home health services being received by a recipient or results in those services being discontinued, the social services district must provide a fair hearing notice to the recipient of the proposed reduction or discontinuance on forms prescribed by the Department and attached to this Directive.

K. WHEN THE CHHA IS REQUIRED TO CONTINUE TO PROVIDE HOME HEALTH SERVICES

The CHHA is not required to commence providing home health services to a recipient who has not been receiving services from the agency and who must be referred to other long-term care services. However, there are instances under which the CHHA is required to continue to provide services to a recipient who must be referred to other appropriate long-term care services. The CHHA must continue to provide home health services under the following conditions,

provided of course, that the services continue to be medically necessary and can continue to maintain the recipient's health and safety in the home:

1. when the social services district and the CHHA agree that the recipient must be referred to other appropriate long-term care services, the district and the CHHA are attempting to arrange for other services, but the services the recipient requires are not yet available to the recipient;

2. when the social services district and the CHHA disagree regarding the amount, duration, or scope of services to be provided to the recipient, or as to whether the recipient must be referred to other appropriate long-term care services, and the social services district has referred the recipient's case to the local professional director or designee, and they are awaiting the final determination of the local professional director or designee;

3. when it is the final determination of the local professional director or his or her designee that the recipient must be referred to other appropriate long-term care services, but the services the recipient requires are not currently available; or,

4. when the recipient requests a fair hearing to appeal the final determination of the local professional director or designee and the case qualifies for aid continuing status, and the outcome of the fair hearing is still pending.

L. ARRANGING FOR OTHER APPROPRIATE SERVICES

1. Tasks Which Must Be Completed

When the CHHA and the district agree or it is the final determination by the local professional director or his or her designee that the recipient must be referred to other appropriate long term care services, including services in a RHCF, the CHHA and the social services district have a joint responsibility for arranging for other appropriate care. The CHHA and the social services district must enter into an agreement as to which of the following tasks will be done by the CHHA and which will be the responsibility of the social services district. Social services districts with Community Alternative Service Agencies (CASAs) or similar long term care management entities must seek Department approval to delegate some or all of these tasks or any other part of the fiscal assessment process to the CASA or CASA-like entity. The tasks which must be performed are:

a. complete all required admission documentation for each recipient awaiting referral to other appropriate long term care services;

b. file such documentation with appropriate long term care services providers which provide the level of care appropriate for the recipient and are located within 50 miles of the recipient's home;

c. provide each long-term care services provider with the names and telephone numbers of professional staff available to provide additional information to such providers regarding the recipient's medical conditions or service needs;

d. conduct follow-up activities by telephoning, each week, at least three of the providers within a 50 mile radius to determine whether the level of care the recipient needs is available; and,

e. rotate telephone contacts weekly among all appropriate providers within the 50 mile radius and maintain a record of such contacts.

Districts which have more than 25 RHCFs within a 50 mile radius may prioritize or stagger the application process. Admission applications should be sent to the five RHCFs most preferred by the recipient. If after 10 days those facilities have not admitted the recipient, applications must be sent to five additional facilities. This process must continue every 10 days until all appropriate facilities have been contacted.

The fiscal assessment and management of home health services policies may impact on the district's and hospital's current discharge planning procedures. Districts should work cooperatively with hospital discharge planners to develop procedures which help facilitate the recipient's discharge from the hospital to the appropriate long-term care setting.

2. When Other Long-Term Care Services Become Available

The CHHA must inform the recipient and the recipient's physician when other long-term care services become available. If the recipient accepts the other appropriate long-term care services, the CHHA must assist the recipient to obtain the services and discharge the patient in accordance with Department of Health regulations. If the recipient refuses other appropriate long-term care services when they become available, the CHHA must inform the recipient and the recipient's physician and comply with appropriate regulations of the Department of Health. However, no Medical Assistance payment will be made for any home health services that are provided to the recipient after the date that such other appropriate long-term care services become available to the recipient.

M. RECORDKEEPING REQUIREMENTS

1. Social Services District Requirements

When the social services district reviews a fiscal assessment from a CHHA on a home health services recipient, the social services district must create and maintain a case record on that home health services recipient. Generally, the case record must include all the documentation submitted by the CHHA, documentation of the social services district review of the case, and if applicable, the documentation resulting from the review and determination of the local professional director or his or her designee. Specifically, case documentation must include, but is not limited to, the following:

- o a copy of or summary of the comprehensive assessment or reassessment;
- o evidence of the efficiency review;
- o the amount, scope, and duration of home health services needed;
- o a copy of the fiscal assessment;
- o a summary of the social services district review;
- o documentation that the social services official discussed the results of the review with the CHHA;
- o documentation of the social services district's decision on the case;
- o evidence of referral to the local professional director or his or her designee, if applicable;
- o documentation of the local professional director's final determination;
- o copies of fair hearing notices sent to recipients whose home health services are reduced or discontinued as a result of the final determination of the local professional director or designee;
- o documentation of any case summaries prepared by the district for use in fair hearings; and,
- o copies of any aid continuing notices and fair hearing decisions.

2. CHHA Requirements

Whenever a CHHA conducts a fiscal assessment and submits that fiscal assessment and other documentation to the social services district, as required by this Directive, the CHHA must maintain in the recipient's medical record copies of all the documentation submitted to the social services district for review and approval. In addition, the case record should detail any contacts or case conferencing activities between the CHHA and the social services district.

N. SOCIAL SERVICES DISTRICT REPORTING REQUIREMENTS

Within 30 days of the effective date of this Administrative

Directive, the social services district must complete Attachment # 2, the Home Health Services/Fiscal Assessment Implementation Plan, and return it to this Department.

The social services district is also required to submit annually to the Department statistical data on the fiscal assessment process. This information must be submitted on Attachment # 3, the Social Services District/Home Health Services Fiscal Assessment Report. The first report must be submitted to the Department by 03/31/93. Subsequent reports must be submitted as an attachment to the district's Personal Care Annual Plan.

Attachment # 8 is the Fiscal Assessment Review/Disposition Cover Sheet. The left side of the form is completed by the CHHA and the form is then attached as the cover sheet for each fiscal assessment packet the CHHA submits to the social services district. Upon receipt, the right side of the form is completed by the social services district indicating the results of the district review. The district retains the form along with the rest of the fiscal assessment documentation in the recipient's case record. The district may copy the form and return it to the CHHA as notification of the district's decision.

O. FAIR HEARINGS

A recipient of home health services is entitled to a fair hearing only when the recipient's home health services have been discontinued or the amount, scope, or duration of the home health services has been reduced as a result of the final determination of the local professional director or his or her designee. Such a recipient may be entitled to have the home health services continued unchanged (aid continuing) until the fair hearing decision is issued.

The social services district must notify the recipient, on a form required by the Department, of the local professional director's or his or her designee's determination and of the recipient's right to request a fair hearing and aid continuing in accordance with Part 358 of 18 NYCRR. Until further notice from the Department, social services districts must use the fair hearing notices attached to this Directive as Attachments # 4 and # 5. Social services districts must photocopy these notices and issue them as two-sided notices, not two-paged notices.

P. DELEGATION

The social services district may delegate to an agency or entity the responsibility for the performance of the district's fiscal assessment and management activities required by this Directive. Delegation may take place provided:

1. the department has approved the delegation;

2. the social services district and the agency or other entity to which it intends to delegate have a contract or other written agreement specifying the parties' responsibilities; and,

3. the social services district monitors the activities provided under the contract or written agreement to ensure compliance with the requirements of this Directive.

A social services district wishing to delegate some or all of its responsibilities for fiscal assessment and management of home health services must submit a copy of the proposed contract or other written agreement for approval. At a minimum the agreement must clearly identify all activities to be delegated and the district's plan to monitor performance under the contract. The Department will approve or disapprove all agreements within 30 business days of receipt.

V. SYSTEMS IMPLICATIONS

None. At the present time the fiscal assessment process will not be linked to MMIS.

VI. ADDITIONAL INFORMATION

The MA program will make payments for home health services delivered to a MA eligible individual provided that the CHHA has complied with the provisions of SSL Section 367j, Section 505.23, and this Administrative Directive, including payment for those services delivered while the recipient is waiting for alternate long-term care arrangements, or those services delivered while the recipient is on aid continuing status pending a fair hearing decision.

The Department will monitor and audit both the social services districts' and the CHHA's compliance with the fiscal assessment procedure and the notification requirements specified in Section I. of this Directive. When the Department has determined that any CHHA has submitted claims for home health services provided to recipients for whom fiscal assessments are required, but for whom the CHHA has either failed to conduct the required fiscal assessments or has failed to provide the required notification to the social services district, the Department will require repayment of the full amount expended for home health services provided on and after the 60th day of services.

VII. EFFECTIVE DATE

The requirements of this Directive are effective January 1, 1993.

Gregory M. Kaladjian
Executive Deputy Commissioner

ATTACHMENT 1
PAGE 1

90 PERCENT OF RHCF COSTS BY DISTRICT CY 1991

CODE	COUNTY NAME	90 PERCENT TARGET
01	ALBANY	$2,717.00
02	ALLEGANY	$2,193.00
03	BROOME	$2,337.00
04	CATTARAUGUS	$2,269.00
05	CAYUGA	$2,485.00
06	CHAUTAUQUA	$2,166.00
07	CHEMUNG	$2,659.00
08	CHENANGO	$2,834.00
09	CLINTON	$2,344.00
10	COLUMBIA	$2,463.00
11	CORTLAND	$2,200.00
12	DELAWARE	$2,769.00
13	DUTCHESS	$2,622.00
14	ERIE	$2,407.00
15	ESSEX	$2,598.00
16	FRANKLIN	$2,518.00
17	FULTON	$2,869.00
18	GENESEE	$2,166.00
19	GREENE	$2,601.00
20	HAMILTON	$2,196.00
21	HERKIMER	$2,730.00
22	JEFFERSON	$2,825.00
23	LEWIS	$2,598.00
24	LIVINGSTON	$2,405.00
25	MADISON	$2,738.00
26	MONROE	$2,551.00
27	MONTGOMERY	$3,050.00
28	NASSAU	$3,492.00
29	NIAGARA	$2,261.00
30	ONEIDA	$2,289.00
31	ONONDAGA	$2,881.00
32	ONTARIO	$2,831.00
33	ORANGE	$2,874.00
34	ORLEANS	$2,212.00
35	OSWEGO	$2,259.00
36	OTSEGO	$2,679.00
37	PUTNAM	$2,942.00
38	RENSSELAER	$2,378.00
39	ROCKLAND	$3,482.00
40	ST. LAWRENCE	$2,036.00

90 PERCENT OF RHCF COSTS BY DISTRICT

CODE	COUNTY NAME	90 PERCENT TARGET
41	SARATOGA	$2,825.00
42	SCHENECTADY	$2,609.00
43	SCHOHARIE	$3,362.00
44	SCHUYLER	$3,421.00
45	SENECA	$2,302.00
46	STEUBEN	$2,467.00
47	SUFFOLK	$3,363.00
48	SULLIVAN	$2,579.00
49	TIOGA	$2,472.00
50	TOMPKINS	$2,290.00
51	ULSTER	$2,802.00
52	WARREN	$2,453.00
53	WASHINGTON	$2,266.00
54	WAYNE	$2,665.00
55	WESTCHESTER	$3,311.00
56	WYOMING	$2,522.00
57	YATES	$2,569.00
58	NYC	$3,751.00

HOME HEALTH SERVICE FISCAL ASSESSMENT PROCESS
IMPLEMENTATION PLAN

DISTRICT NAME _____ DISTRICT CODE _____

PERIOD COVERED FROM _____ TO _____

PREPARED BY NAME _____ TITLE _____

DATE _____

---

(1) Number of CHHAs serving recipients in the district _____

(2) CHHA Fiscal Assessments are reviewed at the district by the following:

( ) Registered Professional Nurse
( ) Qualified Social Worker
( ) Other (specify) _____

NOTE: State DSS approval is required if other is checked. Attach an additional sheet listing name, title and qualifying experience of the proposed candidate, and also describe circumstances in the district justifying the necessity for such other personnel to review the fiscal asessments.

(3) List Name & Title of Individual(s) reviewing fiscal assessments:

_____

_____

_____

(4) If the district has a CASA or CASA like entity, what role will the CASA or CASA like entity play in the fiscal assessment process?

_____

_____

_____

(5) Describe the type, level and scope of review activity the district will conduct for each of the following types of fiscal assessments received:

(a) Fiscal Assessments on cases with costs equal to or less than 90% of average monthly RHCF costs.

_____

_____

(b) Fiscal Assessments on cases with costs greater than 90% of average monthly RHCF costs, and meeting at least one exception criterion.

_____

_____

(c) Fiscal Assessments on cases with costs greater than 90% of average monthly RHCF costs and meeting more than one exception criterion.

_____

_____

(6) Describe the process the CHHA and the District have agreed upon for:

(a) post-fiscal assessment review consultation:

_____

(b) case conferencing on complex cases:

_____

(c) dispute resolutions:

_____

(7) The district and the CHHA must agree on the process to be followed when the recipient requires referral for RHCF services. Please list which entity has agreed to assume responsibility for each of the following tasks:

(a) Complete all required admission documentation for each recipient awaiting referral to other appropriate long-term care services.

_____

(b) File such documentation with all long-term care services providers with level of care appropriate for the recipient and located within 50 miles of the recipient's home.

_____

(c) Notify such long-term care services providers with the names and telephone numbers of professional staff available to provide additional information to such providers regarding the recipient's medical condition.

_____

(d) Telephone each week at least three RHCFs, other residential long-term care services or non residential LTC services that provide the level of care appropriate and located within 50 miles of the recipient's home to determine if the appropriate level of care is available.

_____

(e) Rotate such telephone contacts each week among all such long-term care services providers and maintain a record of such contacts.

_____

(8) Will cases where the CHHA and District disagree be referred to:

(a) Local Professional Director NAME _____

(b) Designee NAME _____

(c) Regional Health Systems Agency NAME _____

SOCIAL SERVICES DISTRICT FISCAL ASSESSMENT REPORT FORM FOR HOME HEALTH SERVICES RECIPIENTS

1. District Name: _____ 2. District Code: _____

3. Period Covered: FROM _____ TO _____

4. Fiscal Assessment Statistics:

   (a) Number of Fiscal Assessments received from CHHAs: _____

   (b) Number of Fiscal Assessments with costs equal to or less than 90% of the average monthly RHCF costs: _____

   (c) Number of Fiscal Assessments with costs greater than 90% of RHCF costs and NOT meeting any exception criteria: _____

   (d) Number of Fiscal Assessments with costs greater than 90% of the average monthly RHCF costs and meeting one or more exception criteria _____

   (e) Number of Fiscal Assessments meeting the following exception criteria:

   exception criterion #1 _____ exception criterion #2 _____ exception criterion #3 _____

   exception criterion #4 _____ exception criterion #5 _____

   Note: If a recipient meets more than one exception criteria, please count each exception criteria he or she meets. For example, if a person meets exception criteria #3 and #5, count that person twice in #4(e) above.

   (f) Number of Fiscal Assessments referred to the local professional director or designee for final determination: _____

5. On what number of cases did the Local Professional Director or designee's decision result in:

   (a) Recipient being referred to RHCF services? _____

   (b) Scope, duration or amount of services being modified? _____

   (c) Recipient requesting a fair hearing? _____

6. On what number of fiscal assessments did the district do the following:

   (a) request the CHHA reassess the recipient? _____

   (b) consult with recipient's physician? _____

   (c) conduct an independent fiscal assessment? _____

   (d) request additional information from the CHHA? _____
   (below list information most frequently requested)

   _____

   _____

   _____

   _____

7. Estimate the turnaround time for cases referred to the Local Professional Director, Designee or Regional Health Systems Agency for review. _____

Prepared by: _____

Title: _____

Date: _____