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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 92 ADM-52

TO: Commissioners of
 Social Services

DIVISION: Health & Long
 Term Care

DATE: December 15, 1992

SUBJECT: Composition of the Disability Review Team, Time Limits for
 Determining Disability and Required Evidence for Determination
 of Medical Assistance Eligibility Based on Disability

SUGGESTED
 DISTRIBUTION: Medical Assistance Disability Review Team Staff
 Medical Assistance Supervisors
 Staff Development Coordinators

CONTACT
 PERSON: Questions concerning this Administrative Directive
 should be directed to David Bacheldor at 1-800-342-
 3715, extension 3-2279, or Ellen Bayewitz at 1-800-
 342-3715, extension 3-0195.

ATTACHMENTS: Attachment I, "Statement Regarding Your Medical
 Assistance Disability Application" (available
 on-line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
87 ADM-41	87 ADM-3	360-2.4(a) (2) 360-5.2(c) 360-5.7		<u>Medical Assistance Disability Manual,</u> POLICY 1, 2, 7, 11 <u>MARG</u> p. 373	

I. PURPOSE

This Administrative Directive (ADM) informs social services districts of changes in federal and State Medical Assistance (MA) regulations which:

- (1) extend the time limit for determining disability status;
- (2) revise the description of the Disability Review Team (DRT); and
- (3) clarify the information to be considered in making disability determinations.

II. BACKGROUND

Under previous federal regulations, the time limit for determining MA eligibility based on disability was 60 days from the date of the MA application. In addition, the description of the DRT and the description of the information required to make a disability determination were different for the MA disability program and the Supplemental Security Income (SSI) disability program.

Federal regulations have extended the time limit for determining MA eligibility based on disability from 60 to 90 days and have revised both the terminology used to describe the composition of the DRT and the information to be considered in making disability determinations.

Effective September 16, 1992, State regulations were revised to incorporate these changes to the MA disability program. (18 NYCRR 360-2.4(a)(2); 360-5.2(c); 360-5.7)

III. PROGRAM IMPLICATIONS

Social services districts will have 90 days to determine MA eligibility based on disability status. However, the 90-day time period must not be used as a waiting period or as a reason for denying or terminating persons eligible under another category of assistance (18 NYCRR 360-5.7).

A social worker is no longer required to be part of the DRT. Other individuals who have appropriate training (e.g., nurses) or have pertinent experience may now be part of the DRT. Psychologists also may be included instead of physicians for the review of mental impairments. For the purposes of the DRT, a psychologist is a person who is licensed or certified for the independent general practice of psychology.

Additionally, the requirement that all case records contain a "social history" has been replaced by the requirement that there be sufficient non-medical evidence to make a determination. This change reflects the fact that a social history, while desirable, is not necessary to make a disability determination in every case. However, social services districts are encouraged to continue to obtain a social history, since it is likely to be necessary for a determination of disability in many cases. As in the past, use of the DSS-1151, "Disability Interview", is recommended for all cases. This form is designed to elicit information regarding education and work history, which is necessary for cases which require a medical-vocational evaluation.

NOTE: A diagnosis made by a physician or psychologist is still required.

IV. REQUIRED ACTION

Social services districts must use the following revised policy and procedures in the determination of disability.

- A. Disability status must be determined within 90 days of the date of application, except in unusual circumstances. If a decision cannot be made within this time period (e.g., because necessary information has not been received), the individual must receive a written explanation of the delay. (Please note that, while 87 ADM-3, "MA Disability Case Consent Decree (Tarkowski)" has been cancelled, this notice requirement remains in effect, as do other portions of that previous ADM which are contained in the Medical Assistance Disability Manual.)

The form to be used to tell an individual that a disability determination will not be completed within the 90-day time limit has been revised to reflect the new time limit (Attachment I). This form replaces the one which is found on page 31 of the Forms and Publications section of the Medical Assistance Disability Manual.

- B. The DRT must be composed of a medical or psychological consultant and another individual who is qualified to interpret and evaluate medical reports and other evidence relating to the individual's physical or mental impairments and, as necessary, to determine the individual's capacities to perform substantial gainful activity. The psychological consultant is not mandated as part of the DRT and may only evaluate mental impairments.
- C. The DRT must review the medical report, which must include a diagnosis, and other non-medical evidence and determine whether the individual's condition meets the definition of disability.

V. SYSTEMS IMPLICATIONS

There are no systems implications.

VI. EFFECTIVE DATE

The provisions of this Directive are effective December 1, 1992.

Gregory M. Kaladjian
Executive Deputy Commissioner

STATEMENT REGARDING YOUR MEDICAL ASSISTANCE DISABILITY APPLICATION

Case # Office # Name and Address of Agency:
Unit # Worker # Center or District Office:

Case Name
(c/o name if present)
Address

Date

County

We have been unable to determine your eligibility for Medical Assistance Disability within 90 days of the date of application because:

- () Medical reports have not been received from your treating sources.
- () Additional medical and/or social information is needed. (Specify)

- () You have not provided this agency with medical and/or social information.
- () Other. (Specify)

Your disability determination is still under review and you will be notified as soon as a determination is made.

Signature of Worker: _____ Telephone: _____

Name of Worker: _____ Title: _____

IF YOU ARE CURRENTLY IN RECEIPT OF MEDICAL ASSISTANCE, YOU WILL
CONTINUE TO RECEIVE MEDICAL ASSISTANCE BENEFITS UNCHANGED.