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

Transmittal No: 93 LCM-62

Date: June 10, 1993

Division: Health & Long Term  
Care

TO: Local District Commissioners

SUBJECT: The Home and Community Based Services Waiver (HCBS)

ATTACHMENTS: HCBS Waiver Introduction Letter to Social Services  
Districts (on-line)

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This Local Commissioners Memorandum (LCM) provides clarification of two issues described in 92 LCM-170 for the Home and Community Based Services (HCBS) Waiver. The issues are:

1. MA eligibility determination and waiver of parental deeming; and,
2. MA eligibility and enrollment in the HCBS Waiver.

1. Waiver of Parental Deeming

Section 1902 (a)(10)(c)(i)(III) of the Social Security Act waives institutional deeming rules when determining Medical Assistance (MA) eligibility for individuals under the age of 18 participating in the HCBS Waiver. That means that MA can be provided to eligible HCBS waiver participants without regard to parental income and resources.

When determining eligibility for children who are certified to be blind or disabled under the age of 18 years, districts must disregard parental income and resources and apply only the child's income and resources to the MA level of one.

Note: If a determination of disability has not been done, it needs to be part of the application process.

Note: This is not the same procedure as for the Care at Home waivers. The family need not be determined ineligible for MA prior to applying only the child's income and resources to the MA level of one as required by Care at Home III.

2. Timing of MA Eligibility and HCBS Enrollment

Some districts have expressed concern regarding the timing of the determination of MA eligibility since parental income and resources will be waived only if the HCBS Waiver applicant is approved for Waiver participation by the OMRDD Developmental Disability Services Office (DDSO). Procedures to be followed are described on page 4 of 92 LCM-170.

Only a small percentage of individuals applying for the HCBS Waiver will be children who, without the waiver of parental income and resources, would not be eligible for Medical Assistance; most applicants will be adults. The OMRDD DDSOs will be referring only those waiver applicants who have met all of the conditions of participation in the HCBS Waiver, and for whom MA eligibility has not been determined, to social services districts.

After MA eligibility is approved by the responsible district, and the DDSO is notified, the DDSO will send a notice to the district which confirms the individual's authorization to participate in the Waiver.

3. HCBS Waiver Introductory Letter to Social Service Districts

The letter of introduction of HCBS Waiver applicants to social services districts (originally page 6 of 92 LCM-170) has been revised. The new version, attached, documents that a MA determination will be performed for the applicant only, or if requested for the applicant and his/her family. If an eligibility determination is being requested for the Waiver applicant only, a full financial eligibility determination for the family should not be done. It is understood that without the Waiver parental income and resources will not be disregarded.

4. HCBS Waivers

Medicaid regulations traditionally have been biased toward serving individuals with developmental disabilities in institutions rather than in the community. However, the Health Care Financing Administration has expressed its willingness to work with states to develop and use Medicaid waivers to provide cost effective and appropriate services to individuals with disabilities in the community.

Social services districts are encouraged to work collaboratively with OMRDD DDSO and Revenue Management field staff to ensure that local policies and procedures promote access to MA services for individuals with developmental disabilities participating in the HCBS Waiver.

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Gregory M. Kaladjian  
Acting Commissioner

Filing References

Previous ADMs/INFs/LCMs

92 INF-33  
92 LCM-170

Social Service Law and Other Legal References

14 NYCRR  
Part 624  
Part 633  
Part 635  
Part 636  
18 NYCRR 358-6.4

Miscellaneous References

42 CFR 440.180  
411 Subpart G  
42 CFR 431.107  
42 CFR Part 455  
Subpart B

