INFORMATIONAL LETTER	TRANSMITTAL: 96 INF-28
	DIVISION: Temporary Assistance

TO: Commissioners of Social Services

DATE: December 11, 1996

SUBJECT: Questions and Answers from the Drug and Alcohol Statewide Regional Meetings, the Introduction of Four New Forms That Will Assist Local Districts in Working With Their Client Population, and the Obsoletion of DSS-2355 and DSS-2356

SUGGESTED DISTRIBUTION:
Income Maintenance Directors
Medical Assistance Directors
Employment Coordinators
SSI Unit
Staff Development Coordinator

CONTACT PERSON: Regional Representatives: Region I (518-473-0332); Region II (518-474-9344); Region III (518-474-9307); Regional IV (518-474-9300); Region V (518-473-1469); Region VI (212-383-1658)
Forms: Bob Gullie (ext. 4-6055)

ATTACHMENTS: Attachment A - Listing of all attachments - available on-line

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		370.2			

DSS-329EL (Rev. 9/89)

This letter has three purposes:

1. Transmit the attached questions and answers from the Regional Meetings on Working with Clients with Drug and/or Alcohol (D&A) Problems. The material is divided into six parts: Forms Related; Employment Related; Supplemental Security Income (SSI) Related; Medical Assistance Related; Implementation Issues; and Other.

2. Introduce the new DSS-4524, 4525, 4526 and 4527 forms.

   NEW DSS-4524: "Notice About Signing the Required Consent for Disclosure of Medical and Non-Medical Records from Alcoholism and Drug Abuse Treatment Programs"

   DSS-4525: "Consent for Disclosure of Medical and Non-Medical Records from Alcoholism and Drug Abuse Treatment Programs"

   DSS-4526: "Medical Examination for Employability Assessment, Disability Screening, and Alcoholism/Drug Addiction Determination"

   DSS-4527: "Alcoholism and Substance Abuse Treatment Program Progress Report"

3. Obsolete Forms DSS-2355 and DSS-2356. The introduction of the four new drug/alcohol forms makes the following forms obsolete:

   DSS-2355: "Medical Report (Employment)"
   DSS-2356: "Psychiatric Report (Employment)"

These forms have resulted from the efforts of staff working together for nearly 18 months. Staff from the Division of Temporary Assistance, Legal, Department of Health Office of Medicaid Management, Office of Disability Determinations MA Review Team, Office of Alcohol and Substance Abuse Services (OASAS) staff from NYC and Albany, and most recently, central Vocational, Educational Services for Individuals with Disabilities (VESID) staff, have reviewed the forms through at least three revisions. Comments were also solicited from local district staff and presented to districts via NYPWA on at least two separate occasions. We anticipate that as the forms are used further refinements may be necessary.

We want to emphasize that, although we believe that many counties will welcome the use of these forms, they are not being mandated at this time. We are also aware that some districts have created their own forms which have been very effective in tracking their Home Relief (HR) D&A caseload and if they so choose, they may continue to do so. We want to reassure those districts that we are not mandating a change.

We expect delivery of the four new Drug/Alcohol forms to the Albany warehouse in December. Your district will automatically receive supplies.

Upon receipt of the new forms, local districts may continue to use their own forms or choose to use the new ones. In any case, upon receipt of the new forms, all local districts should destroy any remaining supplies of the DSS-2355: "Medical Report (Employment)" and DSS-2356: "Psychiatric Report (Employment)", since these forms are now obsolete.

Future requests for the 9/96 printed versions of the DSS-4524, DSS-4525, DSS-4526 and DSS-4527 should be submitted on Form DSS-876 (Rev. 00/96): "Request for Forms or Publications", and should be sent to:

New York State Department of Social Services
Bureau of Forms and Print Management
P.O. Box 1990
Albany, New York 12201

Questions concerning ordering forms should be directed to the Office of Systems Development (OSD) by calling 1-800-343-8859, ext. 4-2702.

Patricia A. Stevens
Deputy Commissioner
Division of Temporary Assistance

LISTING OF ALL ATTACHMENTS

Attachment A: Listing of all attachments - available on-line

Attachment B: Questions and Answers - available on-line

Attachment C: DSS-4524 "Notice About Signing the Required Consent for Disclosure of Medical and Non-Medical Records from Alcoholism & Drug Abuse Treatment Programs" - not available on-line

Attachment D: DSS-4525 "Consent for Disclosure of Medical & Non-Medical Records for Alcoholism & Drug Abuse Treatment Programs" - not available on-line

Attachment E: DSS-4526 "Medical Examination for Employability Assessment, Disability Screening, & Alcoholism/Drug Addiction Determination" - not available on-line

Attachment F: DSS-4527 "Alcoholism & Substance Abuse Treatment Program Progress Report" - not available on-line

REGIONAL MEETINGS FOR WORKING WITH CLIENTS WITH DRUG AND/OR ALCOHOL PROBLEMS QUESTIONS AND ANSWERS

FORMS RELATED

1. Q. Are local districts required to use the four (4) forms introduced with the Protocols?

   A. Use of the forms is not mandatory. If a local district already has in place an effective process to refer, track and monitor this caseload, there is no requirement to change. This would include whatever forms the district is currently using to document its process. However, should a local district choose to utilize the new forms, keep in mind that language in the DSS-4524 "Notice" and the DSS-4525 "Consent" forms cannot be altered. In addition, use of the DSS-4525 Consent Form requires use of the DSS-4524 Notice Form.

2. Q. Substance abuse treatment providers currently use a 90 day time limited Consent Form that a DSS client signs in order for the provider to disclose information to the local district. Is this still time-limited?

   A. No. The DSS-4525 "Consent for Disclosure of Medical and Non-Medical Records for Alcoholism and Drug Abuse Treatment Programs" has been cleared for use by Legal staff of both OASAS and NYSDSS. This Consent Form is no longer time limited. It remains in effect until the client's benefits are discontinued by action of the client or the LDSS.

3. Q. If a client signs the DSS-4525, can a treatment provider require the DSS client to sign a second Consent Form that it uses, and then refuse to provide information to the LDSS because the client refused to sign the provider's Consent Form? Can the client be denied benefits?

   A. No. The client is required to sign the DSS-4525 as a condition of eligibility to receive PA benefits. When the client complies with that requirement, the provider cannot refuse to disclose information to the LDSS, nor can the client be denied.

4. Q. Is the DSS-4525 Consent Form valid until date of closing?

   A. Discontinuance of Public Assistance benefits for purposes of this Consent is defined as any interruption or break in such benefits. When such a break occurs, the authorization to disclose information ends.

5. Q. How can a client withdraw consent?

   A. By signing a statement to that effect. This could be completed on the District's copy of the consent form that was maintained in the case record. Since consent is a condition of eligibility, withdrawal will result in case closing/denied.

6. Q. Can redisclosure of client information take place between a provider and its subcontractor without an additional Consent Form? As an example, the provider subcontracts with another agency for the completion of specific tests. Could results of those tests be redisclosed from the subcontractor to the provider and then from the provider to the LDSS?

   A. Yes. The Consent Form signed by the client, authorizes the agency that has been identified on the form to disclose information of a specific nature that relates to the client's treatment/ employability/disability. If the agency received information from another entity that bears on those areas, then it can be disclosed to LDSS. The district may be restricted in its redisclosure of client information, but this does not affect the district's right to initially receive it.

7. Q. Is a separate Consent Form needed for each provider that the client has received treatment from?

   A. Yes. The original signed consent goes to the specified agency with a copy retained by the district in the client record. The form can be mailed, in the case of previous treatment, and in the case of current treatment, mailed or delivered by the client.

8. Q. Is it necessary to provide clients with the DSS-4524 "Notice About Signing the Required Consent for Disclosure of Medical and Non-Medical Records for Alcoholism and Drug Abuse Treatment Programs" if the district uses its own Consent Form, and not the new DSS-4525 Form?

   A. Providing all clients with the "Notice" is not required, but would be wise practice, particularly if the district's local form does not clearly tell the client of consequences for failure to grant consent.

9. Q. Should the district provide a copy of the completed Medical Form to the treatment provider?

   A. Not unless the client has signed a release specifically to allow the DSS to provide the medical to the provider. This would be a separate consent release than the DSS-4525, which provides disclosure <u>from</u> the provider. If such a release has been signed, a copy of the Medical Form can be provided and the information serve as a baseline against which the client's progress should be measured via the 90-day report from the treatment provider.

10. Q. Can the Medical Form be completed (signed) by a certified social worker?

    A. No. Since the form gathers medical information needed to determine a client's employability which has been brought into question, Department Regulations at Section 385.2(f)(2) limits the examination and statements to a physician or psychologist.

11. Q. Can a local district use the same provider to complete both the Medical and the level of care evaluation developed by OASAS (LOCADTR)?

    A. Yes. This is by far the preferable process for a local district to put in place, and has been implemented in at least two counties (Onondaga and Nassau).

12. Q. Why is the local district now required to determine employability with this new Medical form?

    A. The local district has always had the responsibility to determine employability, and does so automatically at eligibility unless information is provided to question or contest that initial decision. When a client claims he/she cannot work, it is in the district's best interests to obtain as much medical and other information as possible, and based upon all available documentation render a decision regarding the client's employability status. The district has a variety of options available to it in deciding how that process will occur, and what staff (in-house or outside contractor) would be most appropriate to review the documentation.

13. Q. Can a worker use the progress report, which does not have to be signed by a physician or psychologist, to make a determination of employability, based on medical information that contradicts that provided by a physician on the previous medical?

    A. Yes, the worker should use all current information to make a determination of whether or not a client is employable. However, in some instances an updated medical assessment may be necessary to make a determination.

14. Q. Must each district provide Progress Report Forms (DSS-4527) to treatment providers, or will OASAS or SDSS send them out?

    A. SDSS hopes to have printed forms available to include in the training that State OASAS is to conduct with its providers. Should that not prove possible, SDSS will send an initial supply to districts and State OASAS. Local districts need to make several decisions in order to implement these substance abuse protocols. Once that step is completed, districts should be meeting with local treatment providers. The Progress Report forms could be distributed at that time to them, or supplied as each client is accepted for treatment.

15. Q. Will out-of-county providers send the Progress Report to the district of origin?

    A. Yes. When the district of origin learns of a client in treatment out-of-county, contacts need to be made with the provider in order to secure client consent (if not already obtained) for information and subsequent progress reports. Hopefully, all local districts will include in their implementation process, a willingness to secure client consent at the time that a courtesy application is completed. Both the application and a copy of the completed consent for disclosure (meaning the name of the provider agency and contact staff person) could then be sent to the county of origin for appropriate follow-up.

16. Q. The Progress Report includes a check box for the provider to complete to indicate that a client can participate in WEP. Is this what is wanted, or an error?

    A. This is not an error on the form. A WEP assignment cannot interfere with treatment which gives some degree of decision-making to the provider as to when the client has reached a level of stability in order to benefit from a WEP placement. However, since the county is receiving periodic reports on the client's progress toward employability, the point at which a WEP assignment is made should be one of mutual agreement. Certainly the district will have information in order to initiate discussion with the provider on this step in the treatment plan. Additionally, the LDSS may want to negotiate the individual's treatment schedule so that involvement in both employment and treatment activities may be accomplished concurrently.

EMPLOYMENT RELATED

1. Q. Are clients in the methadone maintenance program employable?

   A. Yes, if stable, a methadone client can do employment activity (job search, job) near a methadone site. Methadone clinic hours usually accommodate working people.

2. Q. Can applicants still contest determination of employability?

   A. Yes.

3. Q. Don't these new protocols place a large burden on the county to determine employability?

   A. LDSS has always had the responsibility of determining employability.

4. Q. Does this change the legal liability (especially personal liability) of a DSS worker who makes an employability decision and the client gets injured?

A. No, the DSS has always had responsibility for making the employability decision.

MEDICAL ASSISTANCE RELATED

1. Q. If a PA/MA case is closed, and a MA-ONLY case opened with no break in MA benefits, is a new Consent Form necessary?

A. No. Since a break in medical assistance benefits has not taken place, a new consent form is not necessary for MA to continue to receive information.

2. Q. Does the new DSS-4526 Medical Form replace the required MA-486 and 486T Forms?

A. No. These are MA Disability Related Forms which call for specific test results and other information that is not gathered on the DSS-4526. MA staff will entertain local equivalents that combine forms as long as required information is accommodated.

SUPPLEMENTAL SECURITY INCOME (SSI) RELATED

1. Q. Will the State provide LDSS lists of those SSI D&A clients who filed an appeal?

A. State DSS has obtained a listing of SSI D&A clients by district who have not filed an appeal. This list will be communicated to districts and can be compared to the initial listing which included all D&A clients attributable to each district.

IMPLEMENTATION ISSUES

1. Q. Will the State develop case management software to assist districts in:

a) tracking compliance with employment activities;
b) tracking compliance with treatment?

A. There are no current plans to develop software specifically for these two items. Any systems changes will have to be designed with Welfare Reform needs in mind, which may well include those capabilities and others. Local districts that have developed PC software are encouraged to share with other districts and our Department.

2. Q. Can a District limit the use or refuse to use a provider (even if OASAS certified) that is non-cooperative if the same level of care is available from another provider?

A. Yes. We recommend that the District contact its local OASAS liaison first to try to work out problems with a particular provider. However, should those efforts not succeed, the District can choose not to use that provider.

3. Q. Does the Department still plan to proceed with the card swipe process to track attendance? What is the status of this system?

   A. At this point the Department is not moving on card swipe technology on a statewide basis for tracking attendance.

4. Q. Does the Department have a definition of "satisfactory participation"?

   A. Yes. The JOBS Program definition serves this purpose, requiring a minimum attendance of 75% of weekly scheduled hours as constituting satisfactory participation. Implementation of the D&A Protocols will entail negotiation of such a standard with local providers as higher standards may exist with some treatment programs. The local district may also elect to establish a stricter standard. As an example, NYCWAY has established 100% attendance for inpatient and residential services, and a graduated schedule for outpatient services of 75-100% the first 3 months of treatment; 85-100% from the 3rd to 6 month point of treatment; and should treatment needs extend beyond 6 months, 95-100% attendance is expected.

5. Q. Use of VA operated treatment programs was strongly emphasized. We learned that a more coordinated referral process has been established in downstate counties, that also includes development of worksite assignments at the VA's Northport facility. Will this process occur in other counties where the VA is located?

   A. Yes. A "Dear Commissioner" letter, dated August 15, 1996, briefly mentioned this process and introduced a newly developed referral form that is being tested in downstate counties as part of discharge planning. The Division plans to introduce this form and related steps that a District can take to improve service delivery with the VA as soon as possible. In the meantime, we encourage local district staff to initiate contact with appropriate VA discharge staff to begin discussions. The Protocols may provide a useful starting point.

6. Q. How can local district staff determine which programs offer which services in their counties?

   A. As part of the regional D&A presentations, we provided a specific packet of information for each county that included OASAS certified providers, local and/or regional OASAS staff contacts, MA and VESID staff contacts. A listing of County Mental Health operated outpatient treatment programs was made available in the participant packets. OASAS regional staff participating in these sessions encouraged local districts to contact them for follow-up assistance, and certainly TA division staff are available to assist with implementation concerns and questions.

7. Q. Can a local district question a Congregate Care Level II facility about its program requirements?

   A. Yes. We strongly encourage local districts to obtain this kind of information on all OASAS certified treatment providers and VA operated facilities that service their clients. This could be one of the main goals in establishing an implementation workgroup in each district.

8. Q. Who completes the "LOCADTR"?

   A. The "Level of Care for Alcohol and Drug Treatment Referral" assessment must be completed by a qualified health care professional who has been trained by OASAS in its use.

OTHER

1. Q. Can sanctions for HR recipients who fail to comply with employment requirements and the requirements for alcohol or drug abuse treatment be applied consecutively?

   A. There is no provision in law or regulation to postpone a sanction so that two sanctions could run consecutively. When a social services district determines that an applicant or recipient has violated a program requirement, the district must send a ten day letter, which provides that the sanction will be taken within ten days unless the applicant or recipient requests a hearing. The district has no discretion to postpone the action. The sanction would begin to run after ten days. Neither 18 NYCRR 370.2(d)(7), alcohol and drug abuse sanctions, nor 385.19(e) employment sanctions, authorizes consecutive sanctions. Sanctions for individuals who fail to comply with both requirements would have to run concurrently under current law.

2. Q. Who should LDSS call with problems concerning specific providers?

   A. Call OASAS contact.

3. Q. Can LDSS choose to use non-certified OASAS providers?

   A. No. Recent amendment of section 370.2(d)(7) of 18 NYCRR requires that providers must be certified by OASAS or operated by the Veteran's Administration, and determined by the social services official to meet the rehabilitative needs of the individual.

4. Q. If a client has self-enrolled in treatment, can the LDSS direct the client to a specific provider?

   A. The LDSS should have the LOCADTR completed by a neutral party to determine the appropriate level of treatment. LDSS can specify treatment level. Client must be in an OASAS or VA approved program. As long as appropriate level of care in an approved program is available, the LDSS can redirect the client to such a program.

5. Q. Can LDSS require clients who are in treatment out of district to return to county for comparable treatment?

   A. Several counties are taking a very aggressive stand on this issue in order to maintain as much control and accountability as possible. The appropriate level of care needs to be determined and treatment must be available in order to require clients to attend in-county programs.

6. Q. Can a person be sanctioned for failure to go to treatment or VESID?

   A. Yes. Treatment is an eligibility requirement when it is determined that D/A problems are the primary cause of the person's need for HR. If a VESID sponsored program is part of the treatment plan, failure to attend would be considered failure to comply with the treatment plan.

7. Q. What is the significance of the listing of VESID numbers that was provided in the district packets?

   A. The left-hand column indicates the number of DSS clients from each district who are active VESID clients based upon a match between VESID files and WMS. The right-hand column indicates the number of those clients having no Social Security number. (We believe these are immigrants.) Although we could not share client names with the district due to confidentiality rules, we wanted district staff to know the size of this group, and take steps to identify the clients as some of them are coded employable. Districts may be unaware that OASAS treatment providers frequently refer DSS clients to VESID sponsored training programs as part of the treatment program. Districts must be able to account for these clients in order to ascertain their employability status and continuing need for such services.