

June 12, 2014

DAL: DHCBS 14-07
Subject: Physician Orders and Changes to
Plans of Care

Dear Administrator:

The purpose of this letter is to remind certified home health agencies (“CHHAs”) of regulatory requirements governing the provision of home health services pursuant to physician orders and of patients’ rights to be notified of, and involved in, all proposed changes in their care. It also reiterates, and expands upon, prior guidance relating to fair hearings requested by CHHA patients who are Medicaid recipients.

Physician involvement in plan of care

Under federal and State regulations, CHHAs are required to provide home health services to patients according to a written plan of care that a physician establishes and periodically reviews. If a physician refers a patient to a CHHA under a plan of care that cannot be completed until after an evaluation visit, the CHHA must consult with the physician to approve additions or modifications to the original plan. The total plan of care is reviewed by the attending physician and agency personnel as often as the severity of the patient’s condition requires but at least once every 60 days. Agency professional staff must promptly alert the physician to any changes in the patient’s condition that suggest a need for the physician to alter the plan of care. (See federal and State regulations at 42 CFR § 484.18 and 10 NYCRR § 763.6, respectively.)

Patient involvement in plan of care

Under federal and State regulations, CHHA patients have certain rights, including the right to be informed in advance about the care to be furnished and of any changes to the care to be furnished and the right to participate in the planning of their care. The CHHA must provide the patient with written notice of these rights, and of the patient’s other rights, before furnishing care or during the initial evaluation visit before the initiation of treatment. (See federal and State regulations at 42 CFR § 484.10 and 10 NYCRR § 763.2, respectively.)

The CHHA must thus inform the patient, in advance, of the care to be furnished. The CHHA must also inform the patient, in advance, of any changes to the plan of care before the change is made. This includes informing the patient, in advance, of the following:

- the physician who ordered the change in the plan of care;
- that the CHHA provides care as ordered by the patient’s physician; and
- that if the patient is dissatisfied with the amount of care to be provided, the patient should discuss the change in care with the physician who may

determine, based on the physician's medical opinion, that the change in care should be rescinded or modified pursuant to a subsequent written order to the CHHA.

Fair hearings for patients who are Medicaid recipients

The Department previously provided CHHAs with guidance regarding Medicaid fair hearing requirements. (See DAL HCBS 11-03, issued April 15, 2011.) This prior guidance remains in effect. In addition, CHHAs are advised that they may be notified of fair hearings that Medicaid recipients have requested to review proposed reductions or discontinuances of home health services. At the hearings, recipients might present evidence of subsequent physician orders that would increase or restore care. The New York State Office of Temporary and Disability Assistance, which schedules and holds fair hearings for Medicaid recipients on behalf of the Department, may hear and decide such cases. CHHAs are encouraged to attend and participate in the fair hearing and are expected to comply with any decision after fair hearing that is issued.

Sincerely,



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