

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

January 24, 2014

DAL: ***DHCBS 14-02***
Subject: ***FAQs pertaining to Physician Order
Regulatory Requirements for Licensed
Home Care Services Agencies***

Dear Administrator:

The purpose of this letter is to respond to the many questions received by the Department pertaining to the Dear Administrator Letter (DAL) HCBS 13-15 Clarification Regarding Regulatory Requirements of Licensed Home Care Services Agencies issued on July 8, 2013.

The attached document includes the Frequently Asked Questions and Answers (FAQs) pertaining to physician orders and the regulatory requirements of the Licensed Home Care Services Agency (LHCSA) when providing services under contract with a Managed Care Organization or a Managed Long Term Care Plan.

If you have additional questions or need further clarification, please contact the Department of Health, Division of Home & Community Based Services at homecare@health.state.ny.us.

Sincerely,



Rebecca Fuller Gray, Director
Division of Home & Community Based Services

Attachment

Attachment to DHCBS 14-02

Frequently asked Questions and Answers (FAQs)
Clarification of Physician Order requirements for Licensed Home Care Services Agencies
(LHCSAs)

Question #1: What regulations must a LHCSA be compliant with when they are providing services under contract and where can I find these regulations?

Answer: The regulations that govern LHCSAs are contained in New York Codes of Rules and Regulation (NYCRR) Title 10 Part 766 Licensed Home Care Services Agencies Minimum Standards. These regulations may be accessed through the Department of Health (DOH) website www.nyhealth.gov/ Choose Laws and Regulations listed on the right side of the DOH home page (follow the appropriate prompts.)

Question #2: Is an authorization for home care services from the Managed Long Term Care Plan (MLTCP) or Managed Care Organization (MCO) the same as a physician order?

Answer: No. An authorization is different from a physician order. The LHCSA must meet regulatory compliance standards as it relates to physician orders.

Question #3: Who is responsible for obtaining physician orders when a LHCSA is providing services under contract to a MLTCP or MCO?

Answer: Per §766.10 (d)(1) the LHCSA is responsible for obtaining physician orders unless the contract with the MLTCP or MCO specifies differently.

Question #4: What must be included in the physician orders?

Answer: Per §766.4(d) Medical orders shall reference all diagnoses, medications, treatments, prognoses, need for palliative care, and other pertinent patient information relevant to the LHCSA plan of care.

Question #5: Who may sign physician orders?

Answer: Per §766.4(b) the patient's authorized practitioner must sign the orders. The authorized practitioner may be a doctor of medicine, a doctor of osteopathy, a doctor of podiatry, a licensed midwife or a nurse practitioner currently licensed and registered in NYS to provide medical care and services to the patient.

Question #6: If the MCO or MLTCP obtains physician orders as specified by the contract with the LHCSA, is the MCO or MLTCP required to provide copies of the physician orders to the LHCSA?

Answer: Yes, the MCO or MLTCP is required to furnish a copy of the physician orders to the LHCSA as specified in §766.10 (f).

Question #7: Does the LHCSA have to be informed of changes to the physician orders i.e. medication changes if the MCO or MLTCP is obtaining the physician orders based on contractual arrangements with the LHCSA?

Answer: Yes, per §766.4(a)(d)(2) the LHCSA is required to have medical orders from the patient's authorized practitioner established and documented for the health care services the agency provides and authenticated by the authorized practitioner within 30 days when changes in medical orders occur. Medical orders must reference all diagnoses, medications, treatments, prognoses, need for palliative care and other pertinent patient information relevant to the LHCSA plan of care.

Question #8: If the MCO or MLTCP has a contract with more than one provider to provide personal care services to the same patient, can physician orders be maintained “centrally” by the MCO or MLTCP and a copy provided to the LHCSA?

Answer: Yes, this is acceptable, however the MCO or MLTCP must furnish copies of the physician order to each of the contracted LHCSAs providing services as specified in §766.10 (f).

Question #9: Please clarify the following statement from the DAL 13-15 issued on July 8, 2013: “NYCRR Title 10, §766.4, indicates that an order from the patient’s authorized practitioner must be obtained and documented at the LHCSA.”

Answer: This means that the LHCSA is responsible for ensuring that an order from the patient’s authorized practitioner is established and documented for the services the LHCSA provides and documentation of the physician order must be included in the LHCSA’s patient record as specified in §766.4(a)