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## MEMORANDUM

**TO:** Adult Care Facility and Assisted Living Members

**FROM:** Diane Darbyshire, Senior Policy Analyst

**DATE:** February 4, 2013

**SUBJECT:** **Important Updates from DOH**

**ROUTE TO:** CEOs, CFOs, Administrators

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### **Introduction**

LeadingAge New York is in regular communication with DOH about a variety of issues. We attended a meeting recently and have the following updates, which will be of interest to our adult care facility (ACF) and assisted living members.

### **DOH News**

#### **DOH Staffing Changes**

There have been several changes at DOH recently. Rick Cook, Director of the Office of Health Systems Management (OHSM), recently retired, and Lora Lefebvre, OHSM, has transitioned to another position. Karen Westervelt is the new Director of OHSM, but continues to maintain her previous duties in the Office of Primary Care. Carla Williams, Deputy Director of the Division of Long Term Care in the Office of Health Insurance Programs (OHIP), is retiring in March. Paul Pfleiger, Director of Certification and Finance, will be retiring the end of March with his last official work day being February 20<sup>th</sup>. Paul works on ACF, ALP and ALR applications. Valerie Deetz, who is known to our nursing home members, was appointed Director of the Community Transitions Unit. She will be working on the transitions of seriously mentally ill individuals residing in nursing homes and adult homes into the community. ACF/Assisted Living Surveillance also hired two new staff members: Jillanna Devik and Marcia Kolakoski.

## Summary Inspection Pilot

DOH is piloting “summary inspections”, an abbreviated survey inspection process for providers that meet certain criteria relating to past survey results. Patricia Hasan, Capital District Regional Office Director, is heading up the pilot in the Capital Region, and DOH reports that the process is going well. They will evaluate the pilot to determine next steps and wider implementation. If you have been a participant in the pilot and have feedback, [let us know](#). LeadingAge New York has also shared other ideas with DOH to streamline the survey process and help focus their scarce resources on providers that need the most attention, which we hope to work on this year.

## General ACF Information

### EQUAL Applications to be Issued Soon

DOH plans to issue applications for EQUAL funds shortly and we anticipate the payment methodology will be much the same as last year. ACFs must have an SFS account to receive the funds. We recommend that you take action now to establish an SFS account if you have not done so already, so that you will be able to receive the funds quickly once available. Information about how to set up an account has been e-mailed to you, but if you have any questions or need more information, [let us know](#).

### Census Report: Improvements and New Requirements

It is anticipated that the Annual Census Report will be posted on the HCS later this month. DOH has been revising the report to eliminate unnecessary fields, while adding some demographic questions. We again discussed the challenges that members have experienced in completing the report on the HCS, and DOH indicated that this version should be easier to complete. Providers will have the typical amount of time to complete the report, once made available.

In addition, to comply with [the new transitional adult home regulations](#), DOH is developing a Quarterly Statistical Information Report, which *all facilities* will be required to complete. DOH is attempting to have certain fields auto-populate to minimize data entry. If the provider does not meet the criteria of a transitional adult home, the submission will be rather simple. Transitional adult homes will have to complete more information per the new regulations. DOH is considering involving us in a beta test to ensure that the system makes sense and is easy to use; please [let me know](#) if you are interested in participating. It is anticipated that the first quarterly survey process will be for the period ending 3/31/13. We will meet with DOH again before this report is issued.

### Changes to SSI Administration Next Year

Representatives from the Office for Temporary Disability Assistance (OTDA) explained that changes will be made to the administration of the Supplemental Security Income (SSI) benefit beginning October 2014. The state is taking over the administration of the state portion to save money. Historically, the state has contracted with the federal government for this, at quite a cost. What this means for your residents who are eligible for both the state and federal SSI benefit is that they will receive two separate payments--the federal portion and the state portion-- as opposed to one check. We inquired about the timing of the distribution and the state is making every effort to have the benefits paid at the same time. The federal government is moving to a direct deposit system effective 3/1/13, and debit cards will be issued to those who do not have an

account for direct deposit. The state will also use direct deposit when they begin to administer the benefit in late 2014.

In addition, providers will have to notify the state when an SSI recipient moves out of the ACF, as that would affect their SSI benefit level. They are working to develop a simple process for this notification.

LeadingAge New York will invite OTDA representatives to present to our membership closer to this transition date. In the interim, we recommend that you share any questions or concerns about this transition with us so that we may get them addressed before the change is implemented.

### **Specimen Collection in ACFs**

DOH clarified that aides in ACFs *can* collect urine and stool specimens as long as there are policies and procedures in place and training for the aide. Such policies and procedures should include issues like how the specimen will be collected and stored, as well as training.

### **Who is in Charge When the Administrator is Away?**

DOH reported that several facilities that they contacted during non-business hours related to Hurricane Sandy events told DOH that there was no staff member “in charge”. Members are reminded that there should always be a person in charge to address emergencies, be a point person, talk with DOH and/or be able to reach the administrator if necessary.

### **Criminal History Record Checks**

LeadingAge New York learned that there is likely to be a proposal to require criminal history record checks (CHRCs) in all ACFs, as is the case in other DOH-regulated entities. Currently, only the ALP is required to conduct CHRCs for certain employees by virtue of having a home care agency as a part of the ALP. The proposal will likely include some mechanism for “fair and equitable” reimbursement. We will evaluate closely any proposal that ultimately is proposed, but would [like to know what members think](#) about this possibility.

### ***Assisted Living Residence Issues***

#### **EALR Workgroup to Meet Shortly**

LeadingAge New York and member representatives Mike Seelig and Anne Dooley are on a workgroup with DOH to review issues related to the Enhanced Assisted Living Residence (EALR), now that several are operational in the state. The group will be meeting later this month to discuss policy issues such as feeding, scope of tasks for home health aides and nursing issues. Please [let us know](#) if you have questions or concerns related to practices in the EALR that we can bring to the group for discussion.

### ***Assisted Living Program Issues***

#### **ALP Leave of Absence Issues**

DOH clarified that if an ALP resident exceeds 10 days of social leave during the course of a year it does *not* provide grounds to initiate a termination proceeding. Given that the ALP still receives SSI payment, it is not failure to pay rent. It is questioned, however, if someone who can be out of the ALP that much is truly appropriate for the ALP. This issue highlights the importance of explaining these limitations to residents prior to and upon admission.

## ***Issues Related to Serving People with Mental Illness***

### **Changes to Mental Health Evaluation Process**

With the implementation of the [new transitional adult home regulations](#), there are some changes made to the mental health evaluation process for all adult homes. DOH has issued [guidance](#) regarding which professionals are qualified to conduct a mental health evaluation. While we are pleased that DOH and the Office of Mental Health do not plan to approve every evaluator individually, there are additional requirements providers must follow. Members are encouraged to review the guidance carefully. Note that ACF providers must keep a resume or curriculum vitae on file for each evaluator, which must be updated annually. DOH is exploring whether the State Education Department can be of assistance in assuring that individuals are qualified. In addition, evaluators cannot be on the OMIG or OIG exclusion list and must have sufficient experience working with people with serious mental health issues. According to mental hygiene law, physician assistants *cannot* perform mental health evaluations.

DOH is developing a guidance document based on the inquiries received regarding the new transitional adult home regulations, and encourages the submission of questions to help provide as much clarification as possible to: [transitionalah@health.state.ny.us](mailto:transitionalah@health.state.ny.us). [Copy us](#) on the e-mail so we can ensure your questions and concerns are addressed.

### **The Justice Center**

The Governor's budget proposal moves resources from CQCAPD over to [The Justice Center for the Protection of People with Special Needs](#). The Justice Center will be operational by July 1 of this year, and will assume the staffing and responsibilities of CQCAPD, including oversight of transitional adult homes. DOH is now reviewing existing regulations to determine how responsibilities will be coordinated if an investigation in an ACF is required. In addition, DOH is working on definitions for abuse, neglect and mistreatment in ACFs.

### **Community Transitions for Mentally Ill Nursing Home and Adult Home Residents**

Valerie Deetz, who is now the new Director of Community Transitions, provided some updates on the efforts to transition seriously mentally ill individuals residing in nursing homes out into the community. These efforts relate to the Disability Advocates Inc. (DAI) lawsuit against the state, and we anticipate similar efforts for seriously mentally ill individuals living in adult homes.

Transitional Services Inc. is the designated assessment coordinator for nursing home residents who were the subject of the DAI lawsuit. Assessments are conducted to determine if individuals may be able to be in community housing, and residents have the right to refuse. Thus far, less than 18% of the residents were recommended for transition into the community, and 12 residents have been moved into community housing. Of the twelve, only one resident was re-hospitalized.

## Conclusion

If you have any questions or comments about the contents of this memo, contact Diane Darbyshire at [ddarbyshire@leadingageny.org](mailto:ddarbyshire@leadingageny.org) or 518-867-8828.