

STATE OF NEW YORK DEPARTMENT OF HEALTH

161 Delaware Avenue Delmar, NY 12054-1393

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

April 22, 2010

DAL DAL: #10-03
Use of Residents' PNA for Pharmacy Co-payments

Dear Administrator:

This letter will provide clarification from the Department on what is acceptable in terms of pharmacy co-payments and pharmacies soliciting business in facilities.

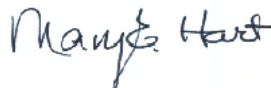
The Department finds the following situations unacceptable, and reminds operators that residents have the right to manage their own financial affairs and that it is the operator's responsibility to advocate for the resident:

- Directly deducting co-payments from SSI residents' Personal Needs Allowance (PNA) on behalf of the participating pharmacy or collecting money for the payment of outstanding bills from pharmacies. Under Social Services Law (SSL), Section 131-o(2), a resident can not be required to use his/her PNA for any services or supplies without the specific consent of the resident in writing. This includes co-payments under the Medicare Part D Prescription Drug Program.
- Allowing pharmacy representatives to set up tables near where the resident's receive their PNA and then referring these residents to those pharmacy representatives for collection of co-payments or outstanding balances on pharmacy co-payments.
- Circulating letters asking residents to authorize automatic deductions from the resident's PNA to cover pharmacy co-payments.

Please refer to DAL HCBC: 06-12 and DAL HCBS: 09-04 for detailed explanation of the Medicare Part D Prescription Drug Program and the pharmacy co-payments in detail. An operator is not authorized to act on behalf of the pharmacy with regard to the collection of co-payments. It is the facility's responsibility, as part of its case management duties, to provide assistance to residents who are having difficulty with pharmacy co-payments.

If you have any questions, please contact Linda O'Connell or Dorothy Persico at (518) 408-1133.

Sincerely,



Mary E. Hart
Director
Division of Assisted Living