

TO: Personal Care Services Program Directors; Social Services Attorneys

FROM: Richard T. Cody

SUBJECT: Dowd vs. Bane (S.Ct., New York Co.)

EFFECTIVE DATE: Immediately

CONTACT PERSON: Bureau of Long Term Care Field Monitoring Staff

This is to advise you of a recent temporary order issued by Justice Schackman, State Supreme Court, New York County, in Dowd v. Bane (Index No. 92-17335) that concerns social services districts' use of task-based assessments of personal care services applicants and recipients.

1. Social services districts that do not currently use task-based assessments must not implement such plans until further notice.

The court's temporary order prevents the Department from approving any new task-based assessment plans that social services districts submit to the Department for its approval on or after March 14, 1996.

In addition, any social services district that has not implemented a task-based assessment plan must not implement any such plan until further notice from the Department.

2. Social services districts that currently use task-based assessments may continue to use such plans until further notice and may intervene in Dowd v. Bane.

Justice Schackman's temporary order does not prevent the use of task-based assessment plans by social services districts that used such plans before March 14, 1996. Consequently, social services districts that implemented task-based assessment plans prior to such date may continue to assess personal care services applicants and recipients in accordance with such plans until notified otherwise by the Department.

In addition, the order directs the Department to inform those social services districts that currently use task-based assessment plans that they have permission to intervene in Dowd v. Bane. Since plaintiffs seek a preliminary injunction against the use of task-based assessment plans, social services districts that currently use such plans should strongly consider intervening in this litigation.

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Districts having any questions or comments regarding the content of this message, should contact the Bureau of Long Term Care's Personal Care Services Program field monitors, Marcia Anderson, George Fleury or Margaret O. Willard at 1-800-343-8859, extension 3-5602, 3-8269 or 3-5569 or (518) 473-5602, 473-8269 or 473-5569 or on-line at 0LT130, AW5610 or AW8310 respectively. Questions from social services attorneys regarding intervention in the Dowd litigation may be addressed to Assistant Counsel Jane McCloskey at (518) 474-9496 (AY3030)