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state department of
HEALTH

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LOCAL COMMISSIONERS MEMORANDUM

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Date: August 25, 2011

Division: Office of Long Term
Care

TO: Local District Commissioners

SUBJECT: Personal Care Services Program Assessment Protocols

ATTACHMENTS: Attachment A - Narrative Documentation Samples
Attachment B - Assessment Information and Training Module

The purpose of this LCM is to provide guidance to those agencies responsible for administration of the Personal Care Services Program (PCSP) and to acknowledge the importance of adhering to 18 NYCRR §505.14. The LCM, in accordance with the tenets of 18 NYCRR §505.14, provides an overview of the PCSP assessment process and requirements.

Since 2005 the Department of Health's (Department) PCSP staff has conducted on-site monitoring visits to review case records in order to determine compliance with applicable State regulations and policies. These visits also provide an opportunity for local districts of social services (local district) staff to discuss program issues with State staff and to obtain any needed policy clarifications. In addition to the Department's monitoring visits, additional State as well as federal auditors, review local districts' management of the PCSP.

Based on discussions with local district staff and information received from State agencies, the Department takes this opportunity to offer suggestions for the management of the PCSP and its assessment practices.

Presently the PCSP is utilized by approximately 80,000 consumers resulting in annual Medicaid expenditures of \$2.7 billion (2009). As the population of the state ages and dependency upon the services provided through the PCSP increases, it is incumbent that every local district is efficient in its assessment of need for, and delivery of services.

Agencies administering the PCSP are configured differently; for example, some agencies are configured as a Community Alternative Systems Agency (CASA), while others are long term care units located within the local district. While agencies may administer the program within different constructs, the basic functions regarding assessments, accessibility of resources and case management must continue to meet the regulatory guidelines.

Personal care services can be provided only if the services are medically necessary and the authorizing agency reasonably expects that the patient's health and safety in the home can be maintained by the provision of such services, as determined in accordance with the regulations of the Department.

The overall assessment process consists of the following: a review of physician orders, nursing and social assessments of the consumer's needs, a level of care determination, development of a care plan and written notice of determination to the consumer of the authorizing agency's decision to authorize, reauthorize, increase, decrease, discontinue or deny personal care services. Regardless of the tools used to document the assessments, completion of an adequate assessment depends on the assessor's knowledge and ability in addition to the tools that are utilized.

In determining the appropriateness of a consumer to receive, or continue receiving personal care services, the authorizing agency must assess whether the consumer's needs are best met by other services or programs in lieu of personal care services. In such instances, should the authorizing agency determine such service(s) are available, it must first consider the use of such services in developing the consumer's plan of care. Additionally, the authorizing agency must assess whether the consumer can be served appropriately and more cost-effectively by personal care services provided under a consumer directed personal assistance program.

There exists an additional requirement for an independent medical review by the local professional director (or designee) for authorization of services in instances involving a disagreement between the physician's order and the nursing/social assessments, if there is question about the level and amount of services to be provided, or a case involving provision of continuous personal care services.

It is critically important for authorizing agencies to adhere to the assessment and authorization process summarized below and as definitively delineated in 18 NYCRR §505.14. Adherence to these requirements provides the means to appropriately meet the needs of consumers while ensuring standards set forth by all applicable State and federal agencies are met.

Assessment/Authorization Process

The assessment process for the initial authorization of PCS is based on the following: receipt of a completed and signed physician's order on a form approved by the Department; nursing and social assessments with documentation on the Home Assessment Abstract/DSS 3139 or its equivalent; a written fair hearing notice to the consumer and authorization/reauthorization of services. In addition, in late 2012, the Department will convert all PCSP assessments to a uniform assessment system (UAS-NY). Separate and additional training will be made available in advance of such conversion.

Physician's Orders

- Completed signed physician's order for personal care services initiates the assessment process and must be received prior to the assessment or reassessment of the consumer. A physician's order completed by a Nurse Practitioner (NP), Physician Assistant (PA) or Special Assistant (SA) must be co-signed by a physician. Certified Home Health Agency (CHHA) physician's orders may be used but must capture the required information indicated below.
- Using the DOH-4359 (Physician's Order for Personal Care / Consumer Directed Personal Assistance Services), or its equivalent, all completed physician's orders for PCS should be based on a medical examination, the date of which needs to be identified on the orders, conducted within 30 days of the day the orders are completed and signed. Physician's orders must be maintained in the consumer's case record. Verbal physician's orders are unacceptable for use in the PCSP or the Consumer Directed Personal Assistant Program (CDPAP) as such orders are not supported by regulation.

- In order to obtain an accurate description of the consumer's medical conditions and regimens, the physician's orders must include: the consumer's diagnosis, medications, and functional limitations and must indicate whether or not the consumer can be cared for at home. The physician's orders should not recommend the number of hours of service.
- The authorizing agency is reminded the physician must certify that he/she understands the physician's order is subject to the New York State Department of Health regulations contained in Parts 515, 516, 517, and 518 of Title 18 NYCRR. These regulations permit the Department to impose monetary penalties on or sanction and recover overpayments from providers or prescribers of medical care, services or supplies when medical care, services or supplies that are unnecessary, improper or exceed the patient's documented medical needs are provided or ordered.

Following receipt of the completed, signed physician's order, the authorizing agency is responsible for completing nursing and social assessments in order to determine the appropriateness of providing PCS, and if found appropriate, identifying the level and amount of services required by the consumer.

Nursing/Social Assessments

The next step in the assessment process is to complete, or to arrange for completion of, a nursing and social assessment.

- Nursing and social assessments must be completed following receipt of physician's orders. The nursing assessment includes an interpretation of the physician's orders. There must be a link between the nursing assessment and the physician's orders to support the authorization decision. The nurse assessor must connect the diagnosis and functional ability of the consumer to the need for service. It is recommended that nursing and social assessment/reassessment visits be completed jointly since it allows for timely completion of the authorization process, provides a balance between social and nursing needs and promotes consistency in care plan development.
- Nursing and social assessments must be thorough and complete in order to develop an appropriate plan of care for the consumer. Thorough assessments also benefit the authorizing agency's ability to support its decision in the event that the consumer challenges the determination of services and requests a fair hearing.
- It is important that the DSS-3139, or its equivalent, be completed in its entirety indicating type, frequency, and duration of services to be provided and who will provide the service (e.g. agency, family). In addition, in late 2012, the Department will convert all PCSP assessments to a uniform assessment system (UAS-NY). Separate and additional training will be made available in advance of such conversion. Consideration must be given to the role of informal supports in the overall care of the consumer. A narrative section that expands upon details of the consumer's condition not otherwise captured on the assessment tool is beneficial in determining the scope of need for services. Attached to this directive is Attachment A which includes samples of narrative documentation supporting service need.

Nursing Assessments

The nursing assessment must be completed by a nurse from a certified home health agency, or a nurse employed by the local district, or a nurse employed by a voluntary or proprietary agency under contract with the local district.

The nursing assessment must be completed within five working days of the request and include the following:

- (1) review and interpretation of the physician's order;
- (2) primary diagnosis code from the ICD-9-CM;
- (3) evaluation of the functions and tasks required by the consumer;
- (4) degree of assistance required for each function and task;
- (5) development of a plan of care in collaboration with the consumer or his/her representative; and
- (6) recommendation for authorization of services.

The nursing assessment results in a level of care determination through completion of the DMS-1 assessment tool or its equivalent. The DMS-1, or its equivalent, provides the basis for determining the level of care needed as well as the need for any skilled tasks including medication regimes, skilled therapy needs or the consumer's mental status.

- A properly completed DMS-1, or its equivalent, allows the reviewer a quick, efficient method to determine general functional level (e.g. some help, total help) and self-care needs of the consumer. It should relate directly to the services required by the consumer in order to assure development of an appropriate plan of care.
- A current scored and dated DMS-1, or its equivalent, must be completed annually and be maintained in the consumer's PCSP case record.
- As part of the assessment/reassessment process, the nurse assessor must determine if certain other services or service delivery models would be more efficient and cost effective. If the authorizing agency determines that one or more of these services or service delivery models are appropriate and can be delivered cost effectively, then the local district must incorporate use of the options in the development of the consumer's plan of care unless contraindicated by the consumer's physician. In that regard, programs and services which must be considered include, but are not limited to, the following:
 - Consumer Directed Personal Assistance Program (participation in CDPAP is voluntary);
 - Shared Aide;
 - Adult Day Health Program;
 - Long Term Home Health Care Program, an Assisted Living Program, an Enriched Housing Program; or
 - Specialized medical equipment, including, but not limited to, bedside or chair-side commodes, electric lift chairs and insulin pens.

In addition to consideration of the above alternative options, unless contraindicated by the consumer's physician, the authorizing agency must notify eligible recipients of the availability of hospice services and refer the recipient to hospice services if the recipient chooses to receive them. Generally, recipients with a life expectancy of six months or less and who require supportive or palliative care only, are eligible for hospice services.

Social Assessments

The social assessment must be completed on a timely basis by professional staff of the authorizing agency, and include the following:

- (1) discussion with the consumer to determine his/her perception of their circumstances and preferences;
- (2) evaluation of the extent and type of potential contribution of informal caregivers;
- (3) demonstration that all alternative arrangements for meeting the consumer's medical needs have been explored and/or are infeasible including, but not limited to, the provision of personal care services in combination with other formal services or in combination with contributions of informal caregivers.

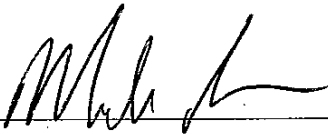
Written Notices

Following a review of the nursing and social and the development of a care plan, the authorizing agency must notify the consumer in writing on forms mandated by the Department, of its decision to authorize, reauthorize, increase, decrease, discontinue or deny PCS. The consumer is entitled to a fair hearing and, if services are proposed to be reduced or discontinued, to have such services continue unchanged (aid continuing), until the fair hearing decision is issued, in accordance with the Department's regulations and 18 NYCRR Part 358.

- Notices must be sent to the consumer prior to the effective authorization date.
- Notices provide information to the consumer on how to request a fair hearing if the consumer is not in agreement with the authorizing agency's decision about service.
- Written notices must be completed in their entirety and a copy must be maintained in the consumer's case record.

In conjunction with the information contained in this LCM, agencies responsible for the administration of the PCSP are encouraged to review their current procedures and processes for the provision of PCS in their districts to assure that they are adhering to regulation 18 NYCRR §505.14. For additional guidance and information, please refer to Attachment B, Assessment Information and Training Module. Districts are encouraged to share this module with all agencies and assessors involved in the assessment process.

Questions should be directed to the PCSP district liaisons @ (518) 474-5271.



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