



Department of Health

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Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

January 21, 2020

Subject: Nursing Home Benefit Limitation in
Managed Long Term Care Partial Capitation Plans

Dear Nursing Home Administrator:

The purpose of this letter is to notify nursing homes of a change in the coverage of the long term nursing home care benefit in the Medicaid Managed Long Term Care Partial Capitation plan (MLTCP plan) benefit package and its impact on nursing homes. In addition, and as further described in the "Implementation and Information Required from Nursing Homes" section of this letter, the Department of Health (the Department) is requesting nursing homes transmit a list of all residents who are designated as long-term nursing home stay (LTNHS), are enrolled in an MLTCP Plan, and have an active discharge plan to transition to the community to the Department no later than **January 28, 2020**.

Change in Long Term Nursing Home Benefit and Nursing Home Requirements

The Centers for Medicare and Medicaid Services (CMS) recently approved an amendment to New York's Medicaid Redesign Team (MRT) 1115 Demonstration Waiver that changes how the long term nursing home care benefit will be covered for people enrolled in an MLTCP plan.

The nursing home MLTCP plan benefit will be limited to three months of long term nursing home care for individuals who are designated LTNHS (previously long-term stay or permanently placed). The three month benefit period begins on the first day of the month following the month of the effective date of the LTNHS designation documented by the nursing home, in conjunction with authorization by the MLTCP plan, on the LDSS-3559, "Residential Health Care Facility Report of Medicaid Recipient Admission/Discharge/ Readmission/Change in Status," form or an approved local equivalent. Note that the change in the long term nursing home care benefit has no impact on rehabilitative, short term or temporary nursing home residents.

For new admissions and changes in status that occur following the receipt of this letter, nursing homes will be required to provide a copy of the LDSS-3559 to the resident, and any other individual representing the patient in his or her care with the nursing home. The LDSS-3559 is also required to be sent by the nursing home to the resident's local department of social services (LDSS).

All MLTCP plan enrollees will receive the attached Benefit Announcement Letter from New York Medicaid Choice (NYMC), the Department's managed care enrollment broker, making them aware of the change in benefits for long term nursing home care.

Changes in Enrollment into MLTCP

Individuals who are designated LTNHS will be excluded from enrollment into an MLTCP plan.

This change in the nursing home benefit does not apply to any other Managed Long Term Care product including Fully Integrated Duals Advantage – Intellectual/Developmental Disabilities (FIDA-IDD), Program of All-Inclusive Care for the Elderly (PACE), or Medicaid Advantage Plus (MAP). It also does not apply to Medicaid Managed Care Plans (Mainstream).

LTNHS Members Enrolled in MLTCP Plans

LTNHS individuals who are already enrolled in an MLTCP plan will have their nursing home benefit limited to three months of coverage. Once these enrollees meet the benefit limitation, they will be disenrolled and their nursing home coverage will be paid by Medicaid Fee for Service (FFS), if it has been determined they are financially eligible for Medicaid coverage of nursing home care.

Implementation and Information Required from Nursing Homes

The Department has already taken steps to ensure that individuals designated as LTNHS who were on the path to mandatory enrollment or who had an enrollment effective date of February 1, 2020 will not be enrolled in an MLTCP plan. This is to avoid the circumstance of individuals being enrolled in an MLTCP plan just to be disenrolled three months later.

Current MLTCP plan enrollees with Medicaid coverage of nursing home care who are designated as LTNHS and have met or exceeded the three month benefit period will be disenrolled from their MLTCP plan effective March 1, 2020 for enrollees in MLTCPs that serve areas outside New York City ("upstate" enrollees) and April 1, 2020 for enrollees in MLTCPs that serve New York City ("downstate" enrollees). These individuals will be converted to Medicaid FFS for on-going coverage of their long term nursing home care.

Due to the large number of individuals who will meet the three month benefit limit at implementation, the initial involuntary disenrollment will occur through a Batch Process initiated and executed by the Department. The process will establish the required entries in the Principal Provider Subsystem in the Welfare Management System (WMS) to initiate Medicaid FFS coverage for these individuals and direct payment to the nursing home. The individual will subsequently appear on the nursing home's monthly roster.

The Department is working closely with MLTCP plans to identify current MLTCP plan enrollees who are designated as LTNHS and have met or exceeded the three month benefit period. To ensure that members who may be in the process of transitioning to the community are not disenrolled from their MLTCP plan, nursing homes must provide to the Department a list of their nursing home residents who have been designated LTNHS and who have an active discharge plan to transition to the community. This list should include the name of your nursing home, a contact person at your nursing home (name, telephone and e-mail), the transitioning resident's name, CIN, date of LTNHS designation and the name of his or her MLTCP plan. *Please transmit the list of residents with an active discharge plan through the Health Commerce System (HCS) using the **MLTC Nursing Home** shared mailbox no later than **January 28, 2020**.*

An active discharge plan means a plan that is being currently implemented. * In other words, the resident's care plan has current goals to make specific arrangements for discharge and/or staff are taking active steps to accomplish discharge. An active discharge plan includes situations where:

- The resident is currently being assessed for transition by the Local Contact Agency; or
- The resident has a Transition Plan in place, which has all the required elements and has been incorporated into the resident's Discharge Plan; or

- The resident has an expected discharge date of three (3) months or less, has a discharge plan in place with all the required elements, and the discharge plan could not be improved upon with a referral to the Local Contact Agency. In New York, the Local Contact Agency is Money Follows the Person/Open Doors and they can be reached at 844-545-7108.

*See "Guidance and Resources for Long Term Care Facilities: Using the Minimum Data Set to Facilitate Opportunities to Live in the Most Integrated Setting," U.S. Department of Health and Human Services, Office of Civil Rights, May 20, 2016).

Individuals who are involuntarily disenrolled under the Batch Process from their plan will receive a disenrollment notice from NYMC. The disenrollment notice will inform the individual that because financial eligibility for Medicaid coverage of nursing home care has been determined, after the disenrollment effective date, the individual's nursing home care will be paid for through Medicaid FFS. If the individual has been paying income monthly toward the cost of nursing home care, the individual is to continue to pay the monthly income directly to the nursing home. This notice also provides information about fair hearing rights. The involuntary disenrollment notice will be mailed by NYMC to enrollees identified by the Department through a review of RR/E "N" codes, verified by the enrollee's plan. A copy of the notice is attached.

Prospective Disenrollments

Beginning on and after March 23, 2020 MLTCP plans will identify members designated as LTNHS and will submit disenrollment packages to NYMC. Generally, this will be done during the second month prior to the third month of a long-term nursing home stay. NYMC will review the package to ensure that a decision has been made regarding the need for a LTNHS and that the LDSS-3559 form, or approved local equivalent, has been completed to notify the LDSS of the individual's status. NYMC will then disenroll the individual and send an involuntary disenrollment notice to the individual. The first date of disenrollment for the ongoing process will be May 1, 2020. MLTCP plans will pay the nursing home until the disenrollment effective date.

On an on-going basis there will be some MLTC plan members who are designated LTNHS, but their long term eligibility and the 60-month look back has not yet been completed. Until such time as long term care eligibility is established for these individuals, they will not have Medicaid coverage for nursing home care. If an individual had been paying some of their monthly income toward the cost of their nursing home care, they will be instructed in the plan disenrollment notice to continue to pay this monthly income contribution to the nursing home pending the redetermination of eligibility under long term care budgeting rules.

Since the submission of the LDSS-3559 form, or approved local equivalent, to the LDSS triggers the long term care eligibility determination, including the 60-month look back, eligibility for Medicaid coverage of nursing home care should be authorized close to the date of disenrollment from MLTCP. Once long term care eligibility is established, Medicaid FFS coverage will be available for payment to the nursing home retroactive to the month following the month of the MLTCP disenrollment. Individuals will receive a notice of decision regarding their Medicaid coverage of nursing home care; including any Net Available Monthly Income (NAMI) that will be required to be contributed toward the cost of care and paid to the nursing home.

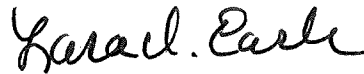
To address prior months covered by the MLTC plan, the LDSS will send a separate notice to the consumer and the MLTC plan indicating the income amount the individual is responsible to pay the plan based on the institutional chronic care budget.

Nursing Home Residents Returning to the Community

Nursing homes are reminded of the obligation to ensure that all residents who express a desire to return to the community are provided the opportunity and assistance to allow the resident to live in the most integrated and least restrictive setting possible. For additional information see Dear Administrator Letter 16:10, dated February 16, 2017, Dear Administrator Letter 18-05, dated September 4, 2018 and Dear Administrator Letter 19-16, dated October 11, 2019. Open Doors can also be reached at 844-545-7108.

Should you have any questions about this letter, please email the Department at MLTCNH@health.ny.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Lana I. Earle".

Lana I. Earle, Director
Division of Long Term Care
Office of Health Insurance Programs

cc: Lisa Sbrana
Mike Ogborn
Kevin Wright
Ann Foster