



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

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

May 4, 2016

DAL: DHCBS 16-05
Subject: Regulatory changes for Home
Care Agencies

Dear Administrator:

The purpose of this letter is to inform certified home health agencies (CHHAs), long term home health care programs (LTHHCPs), and licensed home care services agencies (LHCSAs) of regulatory changes to New York Codes Rules and Regulations, Title 10 Sections 763 & 766 that were adopted by the Public Health and Health Planning Council on April 14, 2016, and become effective May 4, 2016. The regulations can be found at:

http://www.health.ny.gov/regulations/recently_adopted

The timeframe for agencies to obtain signed physician orders (written authorization) based on verbal orders is extended to provide consistency with payment rules for Medicaid and Medicare, and alleviate the adverse impact related to the provider's ability to bill and receive payment for services delivered based on verbal orders. This change does NOT affect the requirements to obtain orders or the frequencies by which they must be reviewed and/or revised. All other requirements are unchanged.

LHCSAs:

Section 766.4 Medical Orders was amended as follows:

- (d) Medical orders shall reference all diagnoses, medications, treatments, prognoses, need for palliative care, and other pertinent information relevant to the agency plan of care; and
- (1) shall be authenticated by an authorized practitioner within 12 months after admission to the agency; and
- (2) when changes in the patient's medical orders are indicated, orders, including telephone orders, shall be authenticated by the authorized practitioner within 12 months.

Please note that agencies are required to comply with all regulatory requirements pertaining to establishing and documenting medical orders, at the frequencies required for services provided to patients consistent with the agency plan of care.

CHHAs/LTHHCPs:

Section 763.7 Clinical records was amended as follows:

- (a) The agency shall maintain a confidential clinical record for each patient admitted to care or accepted for service to include:

(3) medical orders and nursing diagnoses to include all diagnoses, medications, treatments, prognoses, and need for palliative care. Such orders shall be:

(i) signed by the authorized practitioner within 12 months after admission to the agency, or prior to billing, whichever is sooner;

(ii) signed by the authorized practitioner within 12 months after issuance of any change in medical order or prior to billing, whichever is sooner, to include all written and oral changes and changes made by telephone by such practitioner; and

(iii) renewed by the authorized practitioner as frequently as indicated by the patient's condition but at least every 60 days;

Please note that agencies are required to comply with all state and federal regulatory requirements pertaining to establishing, developing, and reviewing written plans of care at the times and frequencies required.

LHCAs and CHHAs/LTHHCPs:

The only change that has resulted from these revisions is the timeframe to obtain written orders based on verbal orders. All other requirements are unchanged. If you have questions about these regulatory changes, please send an email to: homecare@health.ny.gov

Sincerely,

A handwritten signature in cursive script that reads "Rebecca Fuller Gray".

Rebecca Fuller Gray, Director
Division of Home and Community Based Services