



# STATE OF NEW YORK DEPARTMENT OF HEALTH

161 Delaware Avenue Delmar, NY 12054-1393

Richard F. Daines, M.D.  
*Commissioner*

Wendy E. Saunders  
*Executive Deputy Commissioner*

February 19, 2009

**DAL:** *HCBS 09-04*  
**SUBJECT:** *Pharmacy Co-Payments*

Dear Administrator:

The enclosed June 30, 2008 letter from Deborah Bachrach, Deputy Commissioner, Office of Health Insurance Programs, stated that residents of an adult care facility licensed by the New York State Department of Health (DOH) would not be required to pay the co-payment for certain brand name prescription drugs called "preferred" drugs. Please be advised that:

- Pharmacies, under State Medicaid law, must give residents who are covered only by Medicaid their prescription drugs even if the resident cannot pay the Medicaid co-payment.
- SSI residents residing in adult care facilities who are covered by both Medicare and Medicaid and who participate in the Medicare Prescription Drug Program (Medicare Part D) are classified as dual-eligible and therefore, are responsible for the co-payment on all their prescription drugs, including "preferred" drugs. Please be advised that the letter referenced above does not apply to dual eligible persons.

Further clarification is contained in the enclosed New York State Department of Health Dear Administrator Letter HCBC 06-12 dated August 29, 2006 that explains the Medicare Part D Prescription Drug Program regarding the issue of pharmacy co-payments from residents residing in adult care facilities.

If you have any questions, please contact Mary Hart at (518) 408-1133.

Sincerely,

A handwritten signature in black ink that reads "Judith R. Mooney".

Judith R. Mooney  
Director  
Division of Home and Community Based Services