



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Chief of Staff

August 13, 2008

Ms. Joanne Cunningham, President
Home Care Association of New York State
194 Washington Avenue, 4th Floor, Suite 400
Albany, New York 12210

Dr. Michael H. Rosenberg, President
Medical Society of the State of New York
1 Commerce Plaza, Suite 408
Albany, NY 12210

Ms. Robin Frank, Vice President
Governmental Affairs and Continuing Care
Healthcare Association of New York
One Empire Drive
Rensselaer, NY 12144

Mr. Daniel J. Heim
Vice President for Public Policy
New York Association of Homes & Services for the Aging
150 State Street, Suite 301
Albany NY 12207

Dear Ms. Cunningham, Dr. Rosenberg, Ms. Frank, and Mr. Heim:

I am writing in response to your joint associations' letter to the New York State Department of Health's Commissioner Daines regarding the Long Term Home Health Care Program's (LTHHCP) criteria for determining an individual's eligibility for nursing home level of care. As you are aware, the DMS-1 assessment tool and indicator score determines eligibility for nursing home level of care for the LTHHCP. The Office of Long Term Care has developed the enclosed letters to clarify policy for both LTHHCP providers and Local Departments of Social Services regarding the ability of physicians to override the DMS-1 score and documentation requirements for such overrides.

The policy allowing the physician override when an individual does not score a minimum of 60 on the DMS-1 will continue. This policy will be articulated in the waiver renewal application to be submitted to the Centers for Medicare and Medicaid Services in September 2008.

We continue to review the DMS-1 for potential modification of scoring criteria to provide a better indicator score of an individual's level of care, especially with respect to emotional, cognitive, and sensory deprivation as well as skilled nursing oversight. Alternatively, we are also exploring the use of a different level of care assessment tool.

Thank you for your concerns and continuing interest in enhancing the LTHHCP to improve access to care and assure the quality and appropriateness of services provided to this vulnerable population. If you have further questions, please contact Doreen Sharp of my staff at 518-474-6580 or dxs04@health.state.ny.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark L. Kissinger". The signature is written in a cursive style and is positioned above the typed name.

Mark L. Kissinger
Deputy Commissioner
Office of Long Term Care

Enclosures

cc: Wendy Saunders
Valerie Grey
Carla Williams
Judith Mooney
Cynthia Schaffhausen