



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

Dear LTHHCP Administrator:

This letter is to provide clarification regarding the use and documentation required for the Physician Override in the Long Term Home Health Care Program (LTHHCP). It is hoped this clarification will help simplify the process for documentation of the override.

The DMS-1 assessment and indicator score determines eligibility for nursing home level of care, Skilled Nursing Facility (SNF) or Health Related Facility (HRF), and medical eligibility for the program as well as establishing the participant's expenditure cap. The DMS-1 assessment must be completed and scored according to the specific LTHHCP instructions included in the LTHHCP Reference Manual Appendix B beginning on page B-11. A physician override may be used if an individual's DMS-1 predictor score does not reflect the person's true status with regard to the level of care required. For example an individual may score at the HRF level of care (60-179) but based on increased care needs, may be more appropriate for SNF level of care (>180).

A policy that allows the local professional director or other designated physician of the applicant's/participant's choice to provide override justification of the indicator score limits 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 (CMS) in September 2008. The written physician override justification must include, but is not limited to, the medical, psychosocial, and/or rehabilitative needs which would otherwise require an individual to be institutionalized if it were not for the LTHHCP services.

The Local Department of Social Services (LDSS)/ New York City Human Resources Administration (HRA) is responsible for maintaining a complete case record for each LTHHCP participant. The LTHHCP provider is responsible for providing the required assessments (DMS-1 and Home Assessment Abstract) and a signed copy of the plan of care/physician orders for the LDSS/HRA case record. This includes the physician override when applicable.

The documentation required for the physician override includes the following:

- A full justification of the need for the override signed by the participant's physician (or the local professional director when appropriate) is to be on file with the LDSS/HRA in the client case record. A form is recommended for this purpose such

as the example illustrated in the LTHHCP Reference Manual on page 2-5. A copy of this suggested form is enclosed with this letter.

- For subsequent reassessments, the plan of care must include a statement that the physician override justification of a specified date, previously signed and on file in the case record, remains in effect.
- Since the physician signs the plan of care, he/she is authorizing the override justification previously signed on the specified date and would not need to sign a separate form as long as the client circumstances remain consistent with that dated initial override justification which is on file in the LDSS case record.
- Also, in section 15 of the Home Assessment Abstract, where the form asks if an override is necessary, the nurse or local district representative must indicate that the previous justification of the specified date remains in effect and is either on file or attached, whichever is indicated.

The Department is reviewing the scoring mechanism for the DMS-1 for any necessary adjustments as well as analyzing alternative nursing facility level of care assessment tools for potential use in the future. If you have questions related to the LTHHCP, completing the DMS-1 assessment/scoring guidelines or the documentation required for the use of Physician Override, please contact Diane Jones at 518-474-6580.

Sincerely,



Mark L. Kissinger
Deputy Commissioner
Office of Long Term Care

Enclosure

cc: Home Care Association of New York State
New York State Association of Health Care Providers
New York Association of Homes and Services for the Aging
Healthcare Association of New York State