



Department of Health

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Executive Deputy Commissioner

January 21, 2021

DAL: DHCBS 21-02

Subject: In-Service Requirements for Personal
Care Aides and Home Health Aides

Dear Administrator:

This guidance is intended for Certified Home Health Agencies (CHHAs), Long Term Home Health Care Programs (LTHHCPs), AIDS home care programs, Hospices and Licensed Home Care Services Agencies (LHCSAs).

On October 13, 2020, the Department issued DAL DHCBS 20-10, "Home Care and Hospice Guidance Pertaining to In-Service, Orientation and Supervision Requirements," as a response to the COVID-19 crisis. In that DAL, the Department stated that it would exercise enforcement discretion when surveying providers for compliance with certain in-service requirements. As New York continues to experience a State Disaster Emergency, this guidance updates DAL 20-10 and extends the period during which in-service requirements can be met, as detailed herein.

Personal Care Aide In-Service Requirements

Personal care aides are required to complete 3-hours of in-service education on a semi-annual basis, as set forth in 18 NYCRR § 505.14(e)(2)(ii). In recognition of the difficulty in meeting this requirement during the State Disaster Emergency, DAL 20-10 stated that the Department would exercise enforcement discretion where such in-service education was due between January and June 2020. Given the ongoing State Disaster Emergency, the Department will continue to exercise enforcement discretion with respect to in-service training due through June 30, 2021. The Department will continue to re-evaluate throughout the State Disaster Emergency and will provide updates as needed.

Home Health Aide In-Service Requirements

The Centers for Medicare and Medicaid Services (CMS) postponed the deadline to complete the annual 12-hour in-service education requirement for Home Health Aides and Hospice Aides, as set forth in 42 CFR § 484.76(d). New York's regulations also require 12 hours of in-service under 10 NYCRR §§ 763.13(l) (CHHAs, LTHHCPs and AIDS home care programs); 766.11(i) (LHCSAs); and 794.3(k)(1) (Hospices).

As stated in DHCBS DAL 20-10, the Department will continue to exercise enforcement discretion when assessing the completion of Home Health Aide annual in-services until the end of the first full quarter following the declaration of the end of the Public Health Emergency by CMS or expiration Executive Order 202, whichever is sooner.

Notwithstanding this allowance, the Department nevertheless strongly encourages employers to complete the annual and semi-annual in-service requirements for HHAs and PCAs as soon as is practicable and to document such training in staff personnel files.

The Department also reminds employers that in-services for PCAs and HHAs can be conducted remotely or through other off-site methods such as online education. All in-service education should be done under the supervision of an RN with an opportunity for questions to be answered and should be accompanied by validation that learning occurred. Regardless of the method selected for completion of the in-service, the agency must document that the in-service was completed in each aide's personnel files.

The Department urges providers to closely monitor the Health Commerce System and the Department's website. Questions related to COVID-19 should be addressed to covidhomecareinfo@health.ny.gov; other questions should be addressed to homecare@health.ny.gov.

Sincerely,

Carol A. Rodat
Director
Division of Home and Community Based Services