

June 7, 2012

Dear Administrator:

The purpose of this letter is to inform you of several recent changes related to the Assisted Living Program (ALP) under New York's State Medicaid program. These changes, effective April 1, 2012, were adopted in the 2012-2013 State Budget based on recommendations adopted by the Medicaid Redesign Team (MRT).

#### Summary of New Provisions

Unless otherwise noted, the changes are effective April 1, 2012. The Department of Health (DOH) is amending regulations to conform to these statutory changes; however, these changes are effective even without specific regulatory changes being adopted. Changes include:

1. ALPs are now allowed to contract with other qualified providers for services included in the ALP Medicaid capitated rate. This change clarifies that ALPs may contract with a number of qualified providers to ensure appropriate services to residents.
2. Removes the limitation on the number of contracts an ALP may hold with Certified Home Health Agencies (CHHAs)/Long Term Home Health Care Providers (LTHHCPs).
3. Allow ALPs to conduct initial assessments directly or through contract with a CHHA or LTHHCP. Rates are being established to allow ALPs to bill Medicaid for initial assessments it conducts directly. OHIP rate setting staff is currently working to establish a rate, develop and implement regulations, amend billing procedures and secure the necessary approvals (e.g., CMS) to implement this provision. Upon completion of these tasks, OHIP will issue a Dear Administrator letter to notify ALP providers of the information required to commence billing for this Medicaid service. ALPs are also now permitted to conduct reassessments directly or through contract with a CHHA, LTHHCP or other qualified provider. These may be conducted immediately as there is no payment outside of the capitated rate for which a rate needs to be developed.
4. Removes the requirement that ALPs send assessments to the Local Social Services Districts (LDSS) and the requirement that the LDSS prior authorize payment for services. The LDSS continues to have a role in the ALP admission process although a prior authorization is longer required. ALPs will notify the

LDSS of new ALP enrollments and the LDSS may conduct post-admission audits to assure that the individual is both Medicaid eligible and appropriately placed in the ALP. ALPs are at financial risk for any individual enrolled who is found to be inappropriately placed or not eligible for Medicaid.

5. Removes the requirement that authorization for up to 6,000 new ALP beds be linked to the decertification of nursing home beds. Materials for those interested in submitting an Opportunity for Development application is on the MRT website at:  
[http://www.health.ny.gov/health\\_care/medicaid/redesign/assisted\\_living\\_prog\\_announce.htm](http://www.health.ny.gov/health_care/medicaid/redesign/assisted_living_prog_announce.htm)

The MRT included several other ALP-related provisions in their Final Recommendations that do not require statutory changes. The Department of Health will prepare regulatory amendments as necessary and ensure that providers are aware of the impact of these changes. Additional information will be forthcoming on the changes. For example, the Department is:

- Allowing ALP personnel (i.e. home health aides) to provide all services for which they are certified to perform in the community. Tasks which a home health aide (HHA) would be allowed to perform without violating Article 139 (Nurse Practice Act) of the State Education Law include personal care as well as health-related activities. Tasks are grouped to include the following areas:
  - A. assistance with self-administration of medications;
  - B. provision of special skin care;
  - C. use of medical equipment, supplies and devices;
  - D. change of dressing to stable surface wounds;  
performance of simple measurements and tests to routinely monitor the patient's medical condition;
  - E. performance of a maintenance exercise program; and
  - F. care of an ostomy after the ostomy has achieved its normal function.

In addition, the Department is hereby clarifying policy to:

- Allow ALPs to contract with other parties for Medicare-covered services, such as physical therapy.

Some specific questions we have received are answered below:

Q: Which 10-digit operating certificate number should the nurse enter on the PRI?

A: Generally, the nurse should enter the operating certificate number of the entity of which he or she is a direct employee.

Q: May an ALP contract with a PRI-certified nurse in the community to conduct assessments?

A: Consistent with the change in statute to allow ALPs to contract with multiple qualified providers for the provision of covered services, there is nothing prohibiting use of a contracted; appropriately certified nurse.

Questions about this directive should be addressed to the New York State Department of Health, Division of Long Term Care at [ALPApplication@health.state.ny.us](mailto:ALPApplication@health.state.ny.us)

Sincerely,

A handwritten signature in black ink that reads "Mark H. Kissinger". The signature is written in a cursive style with a horizontal line at the end.

Mark Kissinger  
Director, Division of Long Term Care  
Office of Health Insurance Programs