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Medicaid Home Care Service Changes **CHHAs Must Follow Specific Procedures**

Once Medicaid recipients are deemed to need home care services, home health agencies are required under federal law and regulations to take certain steps before they can make a change in a patient's care program, or terminate it. These include consulting with doctors to make sure any changes are medically appropriate, advance notification to patients, the opportunity for patients to contest changes, and a safe transition to whatever is ultimately to be implemented.

First, agencies must consult with a patient's physician as to the best course of action for that patient's well-being. As noted in an April 2011 memo from the New York State Department of Health, economics should not be a determining factor in the physician-home care agency decision to terminate services to a patient. There are several acceptable reasons for discharging a patient, including: the plan of care having met its goals; interference by people such as the patient or his/her family has made it impossible for the agency to carry out the plan of care; or home care services are no longer capable of ensuring a patient's health and safety at home.

The patient must be notified of a proposed change in his or her services. Once this has occurred, he or she has 10 days to contest it. If he or she does wish to challenge the determination, the agency must ensure that the patient continues to receive the same type of care already in place until a hearing can be held.

If the proposed change in a patient's services is finalized after the patient has had an opportunity to contest it, CHHAs must transition the patient in a safe manner. (This also applies to situations where the CHHA intends to shut down its operations, prior to which the DOH must have been provided 90 days written notice plus a transition plan for all of the agency's patients.)

This past April, the potential consequences of non-compliance with this rule came into view as a class-action lawsuit was filed alleging that the Department of Health and a CHHA were jeopardizing the health and independence of certain Medicaid recipients by failing to follow the above procedure in altering home care plans (*Johnson v. Shah et al.*, EDNY 11 Civ. 1956). We will follow this case over the coming months and provide periodic updates.

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