



MENTAL RETARDATION BULLETIN

COMMONWEALTH OF PENNSYLVANIA - DEPARTMENT OF PUBLIC WELFARE

DATE OF ISSUE

May 23, 2000

EFFECTIVE DATE

Immediately

NUMBER

00-00-05

SUBJECT:

Domiciliary Care for Persons with Mental Retardation

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SCOPE: AREA AGENCIES ON AGING (AAA)
COUNTY MH/MR PROGRAM ADMINISTRATORS

PURPOSE:

The purpose of this bulletin is to provide information about service and funding responsibilities for individuals with mental retardation receiving domiciliary care. The information is based on compliance with current Department of Aging (PDA) regulations and other federal and state requirements.

BACKGROUND:

Domiciliary care provides supportive, home-like, community-based living arrangements for adults who cannot live independently. Services are administered locally by the Area Agency on Aging (AAA).

Individuals in domiciliary care receive a monthly domiciliary care supplement in addition to their standard Supplemental Security Income (SSI) benefit. This domiciliary care supplement is used to help pay for care provided by the domiciliary care provider and to cover personal needs of the individual.

Individuals with mental retardation have utilized domiciliary care since the program's inception and continue to use these services in many areas of the state. The aim of domiciliary care for this population has been to enhance individual independence and use of generic resources.

Some individuals with mental retardation reside in community homes that are both licensed by the Department of Public Welfare and certified by the local AAA under domiciliary care. Individuals in these homes receive the domiciliary care supplement as well as community mental retardation service funding through the County MH/MR Program. In accordance with

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

Appropriate Regional Program Manager

PDA regulations, (Title 6, Chapter 21, Domiciliary Care Services for Adults), the AAA will no longer jointly certify homes with more than three domiciliary care recipients, except for homes certified on or before June 6, 1990, which may have a capacity of four or more individuals.

DISCUSSION:

A. Responsibilities of the AAA and County MH/MR Program

The AAA is the lead agency for individuals living in domiciliary care. The AAA is responsible for certifying providers and domiciliary care supplements in accordance with PDA regulations.

The County MH/MR Program is responsible for planning and the provision of any necessary community mental retardation services for individuals with mental retardation in domiciliary care. Community mental retardation services are authorized by the County MH/MR Program based on an assessment and individual program plan developed with the individual's service/case manager. The County MH/MR Program is also responsible to assure that individuals with mental retardation have access to a mental retardation program service manager, as appropriate. Based on the individual's program plan, the County MH/MR Program is responsible to authorize services for this individual based on the availability of funds. When funds are needed but not available, the County MH/MR Program is responsible to assure that funding needs of individuals in domiciliary care homes are included in the county's planning and rebudget processes. The County MH/MR Program is also responsible to refer individuals to domiciliary care, if appropriate.

Individuals with mental retardation who live in a domiciliary care home can often benefit from the collaboration between the County MH/MR Program and the AAA. The AAA can help to assure that the County MH/MR Program is apprised of individuals with mental retardation in domiciliary care and can participate with the County MH/MR Program in services planning, implementation and reviews. Service management can be a shared responsibility between the AAA and the County MH/MR Program or delegated by one agency to the other. Wherever possible, local agencies are encouraged to consolidate duplicative functions to assure service quality and cost effectiveness.

B. Certification of Community Homes Licensed by the Department

In keeping with PDA regulations, Title 6, Chapter 21, domiciliary care funding is intended to provide residential support in homes serving three or fewer individuals, except for homes which are dually certified on or before January 6, 1990.

Community homes licensed under 55 Pa. Code Chapter 6400 which are dually certified by the AAA can continue to be domiciliary care certified based on continuing compliance with applicable state requirements. Domiciliary care certification in these situations only applies to the home at its current address. A provider agency cannot expect to continue

domiciliary care certification of a home serving four or more people at a new address. While a community home that is dually certified for four or more individuals can accept new residents certified under domiciliary care, the number of domiciliary care certified residents cannot exceed the number of certified residents approved on or before January 6, 1990. No additional community homes licensed under 55 Pa. Code Chapter 6400 will be considered for a new domiciliary care certification effective with this bulletin's date of issuance.

Community homes licensed under this chapter also cannot limit care to individuals with mental retardation as long as the community home is dually certified for domiciliary care by the AAA. Any person eligible for domiciliary care who applies to live in a community home which, is dually certified should be considered by the provider for admission based on the individual's compatibility within the household and the care the provider is able to render.

C. Certification of Family Living Homes

Domiciliary care funding can occur with community mental retardation funding in supporting individuals in homes licensed by the Department under family living regulations, 55 Pa. Code Chapter 6500.

A licensed family living home can be dually certified by the AAA when no more than two individuals receiving services reside in the home. One or both residents in a family living home may be eligible to receive the domiciliary care supplement although the AAA will generally not authorize a domiciliary care supplement to an individual who is already receiving community mental retardation funding. On this basis, a family living home which is dually certified for domiciliary care can generally include not more than one individual funded through the community mental retardation program and one person receiving the domiciliary care supplement.

When at least one individual resident receives the domiciliary care supplement, the family living home is subject to dual certification by the AAA and licensing by the Department under 55 Pa. Code Chapter 6500.

D. Certification of Unlicensed Homes Receiving Community Mental Retardation Funding and Supports

Individuals living in homes which are not subject to licensing under 55 Pa. Code 6400 or 55 Pa. Code Chapter 6500 may have access to domiciliary care funding under the following conditions:

- a. The home meets the requirements of current PDA regulations, including a limit of three persons receiving care.

- b. The provider does not limit persons living in the home based on an individual's impairment or a funding stream. While a provider can limit the number of persons in their home and ensure that a person is compatible with the family and other household members, a provider agency or family cannot deny services to a person based on a person's diagnosis, disability, or a particular funding stream.

E. Difficulty of Care Payments to Providers of Domiciliary Care

The County MH/MR Program can authorize a difficulty of care payment to an eligible provider of domiciliary care for the difficulty of care presented by an individual with mental retardation.

To qualify as a difficulty of care payment, payment to the domiciliary care provider must be authorized as a difficult of care payment by the County MH/MR Program through a letter or agreement, in accordance with the Internet Revenue Code.

Difficulty of care payments are defined in context of Section 131 of the Internal Revenue Code which excludes qualified foster care payments from the gross income of a foster care provider. Section 131 (b) (1) defines a qualified foster care payment as a payment by a state or a political subdivision of a state that is paid to the provider for caring for a qualified individual in the provider's home or that is paid as a difficulty of care payment. According to the Federal definition, a difficulty of care payment means payment made by the state or a political subdivision for providing the additional care of a qualified individual, which is required by reason of the physical, mental, or emotional handicap of such individual.

The difficulty of care payment cannot supplant the domiciliary care supplement and can only be authorized by the County MH/MR Program based on evidence that extraordinary services are needed for the individual based on the individual's disability.

Difficulty of care payments are limited to eligible provider families and cannot be used for costs of a provider agency. Since difficulty of care payments are exempt from Federal income tax under certain conditions, providers of domiciliary care who receive a difficulty of care payment are advised to obtain the most current information on their tax status from a tax consultant or the Internal Revenue Service. Provider families are advised that certain restrictions including exclusions based on the number of residents in the home and to profit making entities, may be grounds for denying eligibility for a difficulty of care payment.

Difficulty of care payments can be authorized by the County MH/MR Program to reimburse providers for specialized mental retardation training and instruction, extraordinary care provided by the provider due to the severity of an individual's condition, minor physical adaptations made by the provider to the home or a personal vehicle to accommodate the needs of the individual, respite care and transportation expenses.

Difficulty of care payments can be authorized by the County MH/MR Program to reimburse providers for specialized mental retardation training and instruction, extraordinary care provided by the provider due to the severity of an individual's

condition, minor physical adaptations made by the provider to the home or a personal vehicle to accommodate the needs of the individual, respite care and transportation expenses.

Difficulty of care payments do not include payment for formalized day services, vocational services, and supported employment. Funding for these services can be made available through other sources in accordance with the individual's program plan.

F. Funding Under Medicaid 2176 Waiver

County MH/MR Programs are authorized to use Medicaid 2176 Waiver funding for home and community services provided to individuals with mental retardation living in domiciliary care homes when the individual meets eligibility requirements in accordance with Department policy which is currently set forth in MR Bulletin #00-99-14, title: Individual Eligibility for Medicaid Waiver Services.

Individuals can continue to receive the domiciliary care supplement with home and community services funded under this waiver. Home and community based services must be authorized by the County MH/MR Program based on the individual's program plan. Habilitation and other waiver services provided by the provider of domiciliary care can be reimbursed under the waiver as a difficulty of care payment.