



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

April 17, 2020

COVID-19 Guidance: Voluntary Plan of Care Schedule Change

The New York State Department of Health (NYSDOH) is providing this guidance to Local Departments of Social Services (LDSS) as well as all Medicaid Managed Care Plans (MMCP), including: Managed Long-Term Care Plans, including Partial, Medicaid Advantage (MA), Medicaid Advantage Plus (MAP), and Program of All-Inclusive Care for the Elderly (PACE); mainstream Medicaid Managed Care Plans; HIV Special Needs Plans; and Health and Recovery Plans. This guidance is in response to the state disaster emergency declared by [Executive Order No. 202](#), and shall remain in effect until subsequent notice from NYSDOH, which will be provided prior to, or upon the expiration of, such state disaster emergency.

Background

The health and safety of the State's health care providers, and our ability to provide and support patient care, remain NYSDOH's top priorities. Community-wide transmission of COVID-19 has occurred in New York where the number of both Persons Under Investigation (PUIs) and confirmed cases continues to increase. The situation with COVID-19 infections identified in New York continues to evolve and is rapidly changing. It is important for all agencies to keep apprised of current guidance by regularly visiting the NYSDOH COVID-19 website, the Centers for Disease Control and Prevention (CDC) website, as well as the NYSDOH Health Commerce System (HCS), for the most up-to-date information. Those resources are available at:

- NYSDOH: <https://coronavirus.health.ny.gov/home>
- CDC: <https://www.cdc.gov/coronavirus/2019-ncov/index.html>
- HCS: <https://commerce.health.state.ny.us>

It is important to keep staff updated as the situation changes and educate them about the disease, its signs and symptoms, and necessary infection control measures to protect themselves, and the people they serve. NYSDOH distributes alerts and advisories on its website. It is vital that providers maintain up-to-date contact with both the CDC and NYSDOH. Providers may wish to provide internal contact information for their staff and clients to call with concerns, reports, or questions.

Guidance

This guidance serves as a reminder that Medicaid consumers, including those who are receiving personal care services through a Licensed Home Care Services Agency (LHCSA) and those receiving personal care services through CDPAP, may voluntarily and temporarily request a modification to their approved care plan (a "voluntary care plan"). A voluntary care plan may, for example, reduce the number or hours of service, change the days on which services are rendered, or the times of day for services.

When a consumer requests a voluntary care plan, the MMCP or LDSS must:

- Document the consumer's request for a schedule change in the voluntary care plan and the date of the request;
- Ensure that the voluntary care plan will allow the consumer to remain safely in the community;
- Upon the consumer's request, send to the consumer a copy of the voluntary care plan, by mail or secure electronic transmission, for the consumer's signature and return to the MMCP or LDSS;
- Implement the voluntary care plan only upon receipt of the copy of the voluntary care plan signed by the consumer;
- Implement a process to contact the consumer, including by telephone, email, or text, to monitor that the voluntary care plan is in place and to identify the need for any other Medicaid covered services, including but not limited to medical supplies, durable medical equipment, and medication;
- Using the above process, reconfirm the consumer's continued agreement with the voluntary care plan at least every 90 days;
- Terminate the voluntary care plan upon request of the consumer, including a telephonic request, and reinstate the services included in the authorized care plan as soon as possible, but no later than 72 hours of receiving such request; and
- Confirm in writing to the consumer and the LHCSA that the voluntary care plan was terminated and that the authorized care plan in place prior to the modifications is in effect.

CDPAP consumers may also voluntarily and temporarily request a modification to their care plan and shall promptly notify their Fiscal Intermediary of any schedule change. MMCPs and LDSS may also initiate outreach to consumers that they identify as potentially appropriate for a voluntary care plan. In identifying consumers for outreach, MMCPs and LDSS's may consider such factors as: the consumer refused or cancelled services because of concerns about COVID-19 exposure; knowledge that informal supports are or may be available to assist the consumer; and, the level of need of the consumer. Should the consumer agree to a voluntary care plan, the above requirements of the MMCP and the LDSS apply.

In no event may an MMCP or LDSS implement or require a consumer to consent to a voluntary care plan. A consumer's decision to agree to a voluntary care plan is strictly optional and subject to the express and continued agreement of the consumer, as evidenced by the signed voluntary care plan. Accordingly, any changes in services as compared to the services in place prior to agreement to the voluntary care plan is not an "adverse benefit determination" under 42 C.F.R. § 438.400 or an "action" under 10 N.Y.C.R.R. § 360-10.3(a) that makes such decision by the consumer subject to MMCP appeal and fair hearing rights.

Guidance on Home Care Services and Close or Proximate Contacts

Guidance documents related to home care services and close or proximate contact of a confirmed or suspected case of COVID-19 is available at:

- "Interim Guidance for Home Care Services Regarding COVID-19"
https://coronavirus.health.ny.gov/system/files/documents/2020/03/03-16-20_home_care_services.pdf
- "Guidance on the Contacts of a Close or Proximate Contact of a Confirmed or Suspected Case of COVID-19"
https://coronavirus.health.ny.gov/system/files/documents/2020/03/contacts_of_contacts_guidance.pdf

Instructions for Provider Personnel who are at Risk of Being a Person Under Investigation (PUI) (i.e. someone suspected of having COVID-19 due to symptoms or close, unprotected exposure to someone who has the virus)

Staff are exposed to the general community every day and could become infected with COVID-19. Based on their status as essential employees interacting with the public (e.g. clients), personnel must be provided a face covering, such as a mask, and employees shall wear such covering, in accordance with existing procedures and policies.

Providers should have a policy in place to speak with staff, prior to them conducting face-to-face visits with enrolled members, in order to screen the staff for symptoms or contacts that might have put them at risk for COVID-19. It is important that providers strictly enforce their illness and sick leave policies. Staff that begin to show symptoms of illness should not be permitted to remain at work or visit members. Staff should only return to work in accordance with NYSDOH guidance on “Protocols for Essential Personnel to Return to Work Following COVID-19 Exposure or Infection”, available at:

https://coronavirus.health.ny.gov/system/files/documents/2020/04/doh_covid19_essentialpersonnelreturntowork_rev2_033120.pdf.

Staff who have been potentially exposed to someone with confirmed COVID-19, or to someone who is a person under investigation (PUI) for COVID-19, might be placed under movement restrictions by public health officials, based on exposure risk for having contracted COVID-19 and any presenting symptoms.

If a staff person is found to be ill upon screening, the agency should send the person home immediately, and suggest that they contact their primary care physician or refer them to immediate medical care, if necessary.

Where can I direct my questions about COVID-19?

Questions can be directed to the following email address: icp@health.ny.gov or to the toll-free call center at 888-364-3065.

Where can I direct my questions about this guidance?

Please send any questions relating to this guidance to MLTCinfo@health.ny.gov.

Your diligence in implementing appropriate measures for COVID-19 preparedness is appreciated.