

LK Alert

April 2008

Littman Krooks LLP

CONTINUED MEDICAID ELIGIBILITY FOR RECIPIENTS WHO CHANGE RESIDENCY (LUBERTO V. DAINES)

On April 8, 2008, the New York State Department of Health issued a Local Commissioners Memorandum (08 OHIP / LCM-1), which advised local departments of social services of the procedures to be followed where a recipient changes residency from one district to another without change in circumstances material to Medicaid eligibility. This LCM resulted from a settlement in the class action lawsuit in *Luberto v. Daines*, which alleged that New York State was out of compliance with a December 2000 letter issued by the Centers for Medicare & Medicaid Services ("CMS"), which reminded states that recipients could not be required to reapply for Medicaid based solely upon a move to a new district and that the states and counties are responsible to transfer the case to the new district, so that Medicaid can continue without interruption. The new procedures do not apply to recipients who are institutionalized in certain medical facilities, including hospitals and nursing homes. Under the new procedures, coverage will be provided by the existing district of responsibility for the month in which the move is reported and the following month. The new district will provide coverage effective the first day of the second month following the month in which the move was reported (the recipient must notify the district of the move and new address in writing). Eligibility will continue for the duration of the originating district's authorization or four months, whichever is greater. If a recipient notifies the district of the move in advance of the move, the district shall provide coverage through the month of the actual move and the following month. The new procedures apply to recipients who notify the district of a move on or after December 28, 2007. This LK Alert presents only a brief summary of the LCM. The LCM contains several other important provisions. If you would like any further information regarding this LCM, please contact our office.

Littman Krooks LLP encourages you to share this LK Alert with anyone interested in the issues discussed herein. Please contact Nicole Garcia at (212) 490-2020 or (914) 684-2100 if you are interested in having an attorney from Littman Krooks LLP speak at your facility. Littman Krooks LLP offers legal services in several areas of law, including Accounts Receivable Management, Medicaid, Health Care, Guardianship, Elder law, Estate and Tax planning, Public Benefits, Estate Administration/Probate, and Trusts and Estates.

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