

**TO:** Local District Commissioners, Medicaid Directors

**FROM:** Mark Kissinger, Deputy Commissioner  
Office of Long Term Care

**SUBJECT:** New State Law Requiring Automatic Change To No More than 8 Hours Per Week of Nutritional and Environmental Support Functions (Level I) For Personal Care and CDPAP Consumers Who Are Authorized to Receive Only Nutritional and Environmental Support Functions

**EFFECTIVE DATE:** Immediately

**CONTACT PERSON:** Personal Care Service Program (PCSP) Liaison (518) 474-5888

The purpose of this message is to inform local departments of social services (LDSS) of the impact to the Personal Care Services Program (PCSP) and to the Consumer Directed Personal Assistance Program (CDPAP) of the recent legislative amendment to Social Services Law Section 365-a(2)(e), that caps Level I, nutritional and environmental support services, to 8 hours a week for persons who receive only Level I services. Chapter 59 of the Laws of 2011 now provides as follows: "personal care services available pursuant to this paragraph shall not exceed eight hours per week for individuals whose needs are limited to nutritional and environmental support functions."

In the PCSP, the discrete provision of nutritional and environmental support functions is referred to as Level I. In the CDPAP, such care provision is referred to only as nutritional and environmental support functions. Current PCSP regulatory language at 18 NYCRR § 505.14 (a)(6)(b) provides that an authorization for a consumer whose service needs are strictly related to Level I services cannot exceed eight hours a week unless the consumer requires some or total assistance with meal preparation. In such a case, the district had the ability to authorize an additional four hours a week. As a result of the recently enacted statutory language, the additional four hours is no longer available and an authorization for consumers whose needs are strictly related to the provision of Level I services is limited to a total of eight hours per week. For consumers participating in the Consumer Directed Personal Assistance Program and who are authorized solely for the provision of assistance with nutritional and environmental support functions, the authorization cannot exceed 8 hours weekly.

Districts are advised that workers must review all cases for PCSP consumers who are currently authorized only for Level I services that exceed 8 hours per week. Workers must also review all cases for CDPAP consumers who are currently authorized only for nutritional and environmental support functions that exceed 8 hours per week. Each case authorization must be reduced to 8 hours per week. Services must not be reduced to fewer than 8 hours per week at this time. The reduction to 8 hours per week is effective for the duration of the current authorization period.

When the authorized hours are reduced to 8 hours per week, districts must utilize the attached LDSS-4008-2 Notice of Intent To Reduce Personal Care Services (Level I only) to 8 Hours per Week Due to State Law Requiring Automatic Change for consumers authorized to receive only Level I services through the PCSP. For consumers participating in the CDPAP and in receipt of

nutritional and environmental support functions only, the district must utilize the attached LDSS-4008-2a Notice of Intent To Reduce Consumer Directed Personal Assistance Program Participants Receiving Nutritional and Environmental Support Functions Only to 8 Hours per Week Due to State Law Requiring Automatic Change. Such notice must be timely. The attached have been added to the Department of Health, Office of Health Insurance Programs website Library of Official Documents and are found under the heading Forms, Medicaid Long Term Care Forms.

Please contact your district's PCSP liaison at (518) 474-5888 if you have questions regarding this information.