

Office of Health Insurance Programs

Division of Long Term Care

MLTC Policy 13.07: Private Duty Nursing Summary

Date of Issuance: March 13, 2013

This information is being provided as background on Fee For Service Medicaid private duty nursing services prior to initiation of transitioning cases in Mandatory Managed Long Term Care counties.

NYCRR Title 10 and Title 18 contain regulations for the provision of Medicaid coverage of private duty nursing services in the patient's home or in a school. Private duty nursing services may be provided when a written assessment from a Certified Home Health Agency, local Social Services department or recognized agent of a local Social Services department indicates that the patient is in need of either continuous nursing services which are beyond the scope of care available from a certified home health agency, or intermittent nursing services which are normally provided by the certified home health agency but which are unavailable. Providers of private duty nursing services are limited to home care service agencies licensed in accordance with the provisions of Part 765 and to private practicing licensed practical nurses and registered professional nurses. Private duty nursing services are presently provided by a licensed home care services agency or a Medicaid enrolled independent provider.

Prior approval by New York Medicaid or the local designee is required for private duty nursing services. Requests for private duty nursing services should identify the private duty nursing provider; the informal support caregiver; a statement from the ordering practitioner that the informal support caregiver is trained and capable to meet all of the skilled and unskilled needs of the patient; and a written physician's order including diagnosis, medications, treatments, prognosis and other pertinent patient information. When, at any time, the Medicaid program or the local designee determines that private duty nursing services are no longer clinically appropriate or safe, and the beneficiary continues to request nursing care, the beneficiary is advised of the determination and of the due process rights.

Approval of private duty nursing services is for a period not to exceed six months with required recertification every six months thereafter. Determinations for continued care beyond the initial three months must be approved.

See attachment below for supplemental information.

Attachment 1



STATE OF NEW YORK
DEPARTMENT OF HEALTH

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Richard F. Daines, M.D.
Commissioner

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Chief of Staff

INFORMATIONAL LETTER

TRANSMITTAL: 08 OHIP/INF-5
DIVISION: Office of Health Insurance Programs
DATE: August 19, 2008

TO: Commissioners of Social Services

SUBJECT: Guide to Accessing Medicaid Private Duty Nursing Services in the Community

SUGGESTED DISTRIBUTION: Local District Commissioners
Medicaid Staff
Staff Development Coordinators
Legal Staff
Fair Hearing Staff

CONTACT PERSON: Medical Prior Approval
Division of Provider Relations and Utilization Management
(800)-342-3005, option 1, or
(518) 474-8161

ATTACHMENT: Attachment I: Guide to Accessing Medicaid Private Duty Nursing Services in the Community

FILING REFERENCES

Previous ADMs/INPs	Releases Cancelled	Dept. Regs	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		18 NYCRR §505.8 10 NYCRR §85.33 10 NYCRR		OHIP Private Duty Nursing Manual, Section I & II	Jeanette Leon v. Daines et al. (E.D.N.Y.) CV-07-1674


Date August 20, 2008

Trans. No. 08 CHIP/INF-5

Page No.2

I. Purpose

The purpose of this Informational Letter is to address frequently asked questions regarding Private Duty Nursing Services in the community through the Medicaid Program.


Deborah Bachrach
Deputy Commissioner
Office of Health Insurance Programs

Guide to Accessing Medicaid Private Duty Nursing Services in the Community

What are private duty nursing services?

Private duty nursing services are nursing services for Medicaid clients who require more individual and continuous nursing care than is available from a certified home health agency (“CHHA”). A CHHA may provide nursing services only on a part-time or intermittent basis, generally fewer than two hours per service authorization. A Medicaid client may be appropriate for private duty nursing services if he or she requires nursing services that exceed the amount and scope of nursing services that a CHHA may provide.

Who can provide private duty nursing services?

Private duty nursing services may be provided by a licensed home care services agency that is enrolled as a Medicaid provider and is willing to admit and serve the Medicaid client. Private duty nursing services may also be provided by a privately practicing registered professional nurse or licensed practical nurse who is an enrolled Medicaid provider and who is willing to serve that particular client. A licensed practical nurse may render nursing services only in compliance with Article 139 of the Education Law.

How does a Medicaid client in the community obtain private duty nursing services?

In general, most new private duty nursing cases are Medicaid clients who have been discharged to the community from a hospital or a nursing facility. In those cases, the hospital or nursing facility discharge planner is primarily responsible for referring the Medicaid client to private duty nursing services, when appropriate. However, Medicaid clients already residing in the community, or their representatives, may also seek to obtain private duty nursing services.

For the Medicaid program to pay for private duty nursing services, the services must be prior approved. The New York State Department of Health reviews and approves or denies prior approval requests for Medicaid clients in most social services districts. The Department’s regulations provide that the Department must, with certain exceptions, decide fully-documented requests for prior approvals within 21 days of receipt (10 NYCRR § 85.37). A few social services districts process prior approval requests directly. At present, the social services districts that process prior approval requests themselves are Broome, Chemung, Erie, Oneida, Schenectady, Tompkins and Westchester.

The first step in the prior approval process is that the client’s physician, or a certified nurse practitioner, must provide a written order that describes why private duty nursing services are medically necessary for that client. The order must describe the client’s need for skilled services, including frequency; whether RN or LPN services are recommended; and the number of hours of nursing services that are recommended. This written order may be obtained by the client, the client’s parent or by another person acting as the client’s representative.

The prior approval request and supporting documentation may be submitted by the client’s physician or by the provider that has agreed to furnish the services. The prior approval request must include the name of the particular provider that has agreed to serve the Medicaid client and that provider’s category of service, whether a licensed home care services agency or privately practicing RN or LPN.

There are other requirements for obtaining prior approval for new private duty nursing cases. For a more complete description, consult the prior approval guidelines, particularly the “Paperwork

Requirements for New Cases,” that are contained in the provider manual for private duty nursing services. This provider manual may be viewed at www.emedny.org

Is there a list of Medicaid private duty nursing providers?

Yes. A list of Medicaid enrolled private duty nursing services providers can be obtained by calling the Medicaid Helpline at 1-800-541-2831. The Department’s website also includes a Home Health and Hospice Profile that includes useful information, including contact numbers, location and inspection reports, regarding a variety of home care providers. In particular, this website lists, by county, licensed home care services agencies that, if enrolled in the Medicaid program, may be able to provide private duty nursing to Medicaid recipients residing in that county. See www.homecare.nyhealth.gov.

What if I have trouble finding a Medicaid private duty nursing provider?

There are several options. If a provider is willing to provide some, but not all, of the private duty nursing services recommended by the client’s physician, more than one provider may be used to furnish the services. If the client is a medically fragile child, recent legislation makes an enhanced payment rate available to private duty nursing services providers; however, this legislation is currently to expire on January 1, 2011 (Social Services Law § 367-r). For other clients, the client or the client’s representative may request that the social services district seek approval from the Department of Health for an enhanced case-specific payment rate, subject to the approval of the State Division of the Budget. This applies to all social services districts, including those districts for which the Department reviews prior approval requests.