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| LOCAL COMMISSIONERS MEMORANDUM |
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Transmittal No: 91 LCM-40

Date: March 11, 1991

Division: Medical Assistance

TO: Local District Commissioners

SUBJECT: Medical Assistance Resource Standards Implementation

ATTACHMENTS: Attachment 1: Letter to Nursing Home Administrators
(available on-line)

Attachment 2: GIS 91MA009 (not available on-line)

Attached for your information and immediate attention are two documents which have been sent regarding the temporary restraining order in the matter of Doe v. Perales.

Further information will be provided as it becomes available.

Jo-Ann A. Costantino
Deputy Commissioner
Division of Medical Assistance

March 5, 1991

Dear Nursing Home Administrator:

Re: Medical Assistance (Medicaid) Change in Resource Levels Court Order

This letter is to advise you of a federal Court Order in the case of Doe v Perales (Civ. 91-6072, USDC, WDNY [Larimer, J.]). Under the terms of the Court Order, entered March 1, 1991, the Department is required to notify you to "cease immediately any and all actions to bill for or collect monetary contributions from members of the class, which contributions are directly attributable to NYSDSS' change in the Medicaid resource limits". The class has been defined by the Court as "all New York nursing home residents who received Medicaid benefits during the month of February and who will receive such benefits in the future."

By letter dated January 28, 1991, you were advised that a change in State law reduced the Medicaid resource level to \$3,000.00. At that time you were also advised that the reduction in the resource level would be applied to all your residents receiving Medicaid who had resources over the \$3,000.00 limit. The reduction was to be accomplished by increasing the Net Available Monthly Income (NAMI) amounts for these residents for February. The increase in NAMI would not exceed \$350, the maximum amount of any excess resource which could occur as a result of the reduction in the resource level.

In order to determine who would be affected by this change and how much additional NAMI to collect, you were asked to compare the NAMI amounts for February with those for January. You were also asked to provide all affected residents with a notice advising them of the reductions and of their right to a reconsideration of the amount of the reduction and to a State Fair Hearing.

As a result of the Court Order in Doe, the Department must cease all efforts to implement the resource reduction with respect to the class noted above and advise you to stop collecting any increase in the NAMI which resulted from the reduction in the resource level. However, you may continue to collect the standard NAMI for your Medicaid residents; the Court Order applies only to the increase. If you have any questions regarding this Court Order or how to determine the amount of NAMI involved, please call Ruth Bongiovanni at (800) 342-3715, ext. 49130.

Sincerely,

Jo-Ann A. Costantino
Deputy Commissioner
Division of Medical Assistance