New York State Center for Assisted Living
Fall Education Conference & Trade Show

ALP Lessons from the Field
Wednesday, November 16, 2016
8:00am to 10:30 am

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Assisted Living Program

What are we going to discuss today?

- Overview of ALP requirements for start-ups;
- Structure impacts your operation;
- Compliance issues;
- Record keeping;
- Billing;
- OMIG audits;
- Self - Disclosure
• Chapter 165 of the Laws of 1991
• Address OBRA 87 changes that eliminated Health Related Facilities and beds in Nursing Homes
• Address growing desire to age in place in congregate setting of adult home
• “Program”= add services to existing structures
Medicaid Payment is based on assessment of participant and related to the RUGS system

Medicaid program is approved under the State Plan Amendment for Personal Care Services

Contract with Local Social Services District or State indicates ALP as provider of personal care services as well as providing program oversight
  - NYC ALPs enter into contract with NYS
  - Role of LDSS has been revised overtime
Assisted Living Program

What is an ALP?
What is an “ALP?”

- An entity which is approved, established and operated for the purpose of providing long term residential care, room, board, housekeeping, personal care, supervision, personal care, case management and providing or arranging for home health services to five or more eligible adults unrelated to the operator.
• First need identified in 1993: 4,200 beds
• Chapter 58 of the Laws of 2009: included an additional 6,000 beds linked to the decertification of RHCF beds
• Chapter 56 of the Laws of 2012: removed the requirement that RHCF bed decertification be linked to the 6,000 ALP beds
• Chapter 56 of the Laws of 2013: authorized the approval of 4,500 additional beds beyond those determined available as of April 2012 for certain adult homes (Transitional Adult Homes).
## Assisted Living Program

### Status Today

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<thead>
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<tr>
<td>Number of New Beds Authorized</td>
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<td>4,393</td>
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Beds in operation as of March 2016: 10,605 (up 1,867 from 1/1/16)
## Assisted Living Program

*Part of a Larger Assisted Living Resource*

<table>
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<tr>
<th>Total Certified Beds</th>
<th>46,535</th>
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<td>ALP Beds</td>
<td>10,605</td>
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<td>ALR Beds</td>
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<td>EALR Beds</td>
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<td>SNALR Beds</td>
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Assisted Living Program

Current Structure

ACF/EH + LHCSA → ALP
Assisted Living Program

Current Structure

ACF/EH

CHHA

ALP
Structural Issues:
More Complex than the Diagrams Show

- The regulatory structure and oversight is ADDITIONAL to the ACF.
- Important to understand the home care services agency standards and other home care implications
- Relationship to CHHA:
  - Contract should be clear about services
  - Documentation of CHHA services need to be in resident file
  - Documentation of the caregivers onsite must be provided (PPD, Immunization)
- Nurse roles important to understand and establish between LHCSA and CHHA
Structural Issues:

More Complex than the Diagrams Show

• Importance of UAS-NY and training
  • Provides the NHLOC
  • Provides RUG Score
  • Use with Medical Evaluation Form
  • Create Plan of Care
• Replaces: Hospital/Community Patient Review Instrument (PRI) and Screen • DSS – 4449B
  Identifying Information • DSS – 4449D
  Nursing/Functional/Social Assessment
If an assisted living program is not a certified home health agency or long-term home health care program, the assisted living program must contract with a certified home health agency or long-term home health care program for the provision of nursing and therapy services.

An assisted living program may contract with more than one certified home health agency or long-term home health care program.

- CHHA services can become relevant after a Medicare hospital stay
Program
Narrative:

**Services**

- The operator is responsible for providing or arranging for resident services which must include, at a minimum: room, board, housekeeping, supervision, personal care, case management activities and home health services.

- Services included in the Medicaid capitated rate are:
  - personal care services
  - home health aide services
  - personal emergency response services
  - nursing services
  - physical therapy
  - occupational therapy
  - speech therapy
  - medical supplies and equipment not requiring prior authorization
  - NYS DOH approved adult day health care
Medical supplies and equipment not requiring prior authorization:

- For each Medicaid enrollee, a daily rate is paid to the ALP for the provision of nine services, including the provision of medical supplies and equipment *not* requiring prior approval.
- Consequently, DME providers may only submit claims for a Medicaid eligible ALP participant for DME items *requiring prior approval*. 
Review of eligibility for ALP:

- require more care and services to meet their daily health or functional needs than can be provided by an adult care facility;
- are medically eligible for placement in a residential health care facility due to the lack of a home or a suitable home environment in which to live and safely receive services;
- exhibit a stable medical condition as categorized by the long term care patient classification system;
- are able, with direction, to take sufficient action to assure self-preservation in an emergency;
- voluntarily choose to participate in an assisted living program after being provided with sufficient information to make an informed choice;
- are chair fast (the ALP must notify the DOH central office of their intention to admit or retain a chair fast individual); and
- meet the program eligibility requirements.
• The ALP cannot provide services to individuals who:
  • require continual nursing or medical care;
  • are chronically bedfast;
  • are cognitively, physically or medically impaired to a degree that their safety or the safety of others would be endangered.
Program Eligibility Clarification:

UAS-NY: DAL 15 – 08 June 2015

- UAS-NY Assessment and Assessment Outcomes
  - The UAS-NY is a web-based application that includes the UAS-NY Community Assessment. Several assessment outcomes are generated upon completion of the UAS-NY Community Assessment. These outcomes include:
    - the Resource Utilization Group III Home Care Classification (RUG III/HC); and
    - the Nursing Facility Level of Care (NFLOC).
  - Possible Program Choices
“Possible Program Choices”

The intent of this section is to provide an initial indication of the possible home- and community-based Medicaid long term care choices available to an individual and for that individual to express his/her interest in the available choices.

Due to ongoing program changes that necessitate continued modifications to the underlying algorithm, this functionality will eventually be removed from the UAS-NY.
Assessors will continue to complete the Assessment Outcomes node. This will generate “Possible Program Choices” for the individual being assessed. This will result in one of the following scenarios:

- **ALP is listed as a possible program choice** – In this case, the assessor will indicate if the individual being assessed is interested in ALP and record the response (yes or no) as appropriate. The assessor will then record a recommendation for ALP, as appropriate. The individual may enroll in ALP if all other eligibility criteria are met.

- **ALP is not listed as a possible program choice** – This may be caused by one of the following reasons:
  - The individual is deemed to require two-person assist (other than chair fast individuals.)
  - The individual has a Nursing Facility Level of Care (NFLOC) below 5.
Program Eligibility Clarification:

UAS-NY: DAL 15 – 08 June 2015

- DOH policy is as follows when a NFLOC is below 5:
  - **New Enrollees:** Are *not* permitted to be served by ALP. These individuals should be counseled and directed to other appropriate home and community-based Medicaid long term care program options. **THIS INCLUDES RESIDENTS OF THE ADULT HOME.**
  - **Existing Enrollees:** *May* continue to be enrolled in ALP if:
    - there is a physician order, based on a physical examination that indicates appropriateness for continuation in the program
    - the individual has no home or residence to return to upon discharge from the ALP.
    - **OR** in the absence of continued coverage under the ALP the person would reasonably be expected to meet the NFLOC requirement within the next six months.
Program Eligibility Clarification:

UAS-NY: DAL 15 – 08 June 2015

• This determination would be based on the presence of the following criteria:
  • History of numerous hospitalizations and/or trips to the emergency room, and the ability of ALP to avert hospitalization and/or emergency room use through medical management.
  • Complex medical conditions and care management needs requiring continuous clinical oversight by the multidisciplinary team for the participant to remain medically stable.
  • Psychiatric diagnoses and behaviors requiring constant intervention by ALP. In the absence of support and services, the participant would not likely be able to complete activities of daily living and comply with medical regimen for chronic disease.

The NYS Department of Health will periodically review and approve ALP enrollment, denial of enrollment and annual reassessment procedures to assure compliance with each process.
Role of LDSS

- Must have contract with LDSS for payment
- NYC ALP operators contract directly with NYSDOH
- Contract represents approval for the ALP to provide, and receive Medicaid payment for services.
- Post-admission audits for eligibility and appropriate placement are at LDSS/State discretion
Plan of Care

- Based on initial assessment and periodic reassessments; change of condition; no less than six months
- Any changes must be reflected in the resident’s plan of care
- Critical to assure all information flow to Plan and into resident record
Quality of Program: Questions

- Is the plan of care comprehensive addressing clinical, functional, psychosocial, mental health domains?
- Are all preventative, therapeutic and functional care needs (identified on the assessment) addressed on the care plan?
- Is the care plan carried out as specified?
- Are changes between assessments noted and care plans revised as needed?
- Is the functionality within the UAS being utilized? (Clinical protocols, reports identifying assessment differences, etc.)
- Are quality activities being conducted for all areas of the ALP operation and supported as appropriate or with documented rationale? (complaints, patterns in record reviews, etc.)
- Does a review of QA minutes demonstrate process that meets regulatory standards?
Importance of “clean billing” from the start
• Are all of the necessary documentation pieces present?
  • Comprehensive admission documentation
  • Medical Evaluations – Signed and Dated!
  • Assessments – UAS printed and in file
  • Plan of Care – Signed and Dated!
• Employee records too:
  • PPD and Health Assessment
  • Annual Performance Evaluation
  • Immunization
  • Training

• How are often are claims submitted (weekly/monthly)?
Established in 2006, OMIG is tasked with seeking out and preventing Medicaid Fraud, Waste, and Abuse.

- Duties are carried out through provider audits, but also voluntary self-disclosures.
An overpayment includes any amount not authorized to be paid under the medical assistance program, whether paid as the result of inaccurate or improper cost reporting, improper claiming, unacceptable practices, fraud, abuse or mistake.

Examples:

- Missing Documentation (UAS/Medical Evaluation)
- RUGS Score does not support admission
- Missing Dates/Signatures on Service Documents
- Failure to Complete Minimum Training Requirements
- Missing Certificate of Immunization
OMIG Audits

- The many steps:
  - Entrance conference
  - Audit Review
  - Exit Conference
  - Draft Audit Report with opportunity to respond
  - Revised/Final Audit Report
    - Revised Reports allow another response and starts the process over
    - Final Reports bring hearing rights and an opportunity to negotiate a settlement

- An imperfect system
  - Sampling and extrapolation issues.
  - Years-long (sometimes decades-long) process.
No One is Perfect.

So is it Better to Own Up to Your Mistakes?

**YES**

- 60-days to “investigate, report, and repay”.
- Benefits of statistical sampling.
- Prevents OMIG from auditing same time period/issue.
Self Disclosure Process

- Identify the potential compliance issue
  - OMIG Audit Protocol

- Choosing what to review:
  - *Full Review* – 100% of all paid claims for the time period with 100% repayment of all errors found
  - *Sample Review* – reviewing a small representative subset with the results extrapolated to the universe

- Conduct Internal Investigation/Review
  - Is an expert needed?

- Report findings to the OMIG
Recent OMIG ALP Activity

- Missing/Destroyed Records.
- Personnel records for aides.
- Viewing entire monthly claim as treasure trove for disallowances.
- Timeliness of evaluations and assessments.
Are You Required to Have a Compliance Plan?

- Is your organization subject to Article 28 or Article 36 of the NYS Public Health Law?
- Is your organization subject to Article 16 or Article 31 of the NYS Mental Hygiene Law?
- Does your organization claim or order Medicaid services or supplies of at least $500,000 in any consecutive 12-month period?
- Can your organization be reasonably expected to claim or order Medicaid services or supplies of at least $500,000 in any consecutive 12-month period?
- Does your organization receive Medicaid reimbursement - directly or indirectly - of at least $500,000 in any consecutive 12-month period?
Are You Required to Have a Compliance Plan?

- Can your organization be reasonably expected to receive Medicaid reimbursement - directly or indirectly - of at least $500,000 in any consecutive 12-month period?
- Does your organization submit Medicaid claims of at least $500,000 in any consecutive 12-month period on behalf of another person or persons?
- If you answered Yes to any of the above questions, then you are required to have a compliance program under New York State Social Services Law Section 363-d and 18 NYCRR Part 521.
- If you answered No to all of the above questions, then you are not required to have a compliance program under New York State Social Services Law Section 363-d and 18 NYCRR Part 521.
What is included in a Compliance Plan?

- Code of conduct
- Identifies a Compliance Officer
  - Day-to-day operational responsibilities
  - Reporting duties
- Compliance training and education schedule
- Systems for identifying compliance risk areas;
  - Self-Auditing
  - Credentialing/Exclusion Reviews
- Procedures for identification and reporting violations
  - Anonymous reporting
  - Non-retaliation/non-intimidation policy
- Procedures for investigation and resolution
  - Plans of correction
  - Disciplinary actions
Thank you!

Questions?

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New York State Center for Assisted Living

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