Medical Insurance and Community Services Administration (MICSA)

Medicaid Alert

July 7, 2005

To: MAP and Home Care Providers

Disability Determinations for Individuals with a Pooled Trust

Effective immediately, consumers of any age (including those age 65 or older) who have established pooled trust accounts, are required to have a disability evaluation as part of the eligibility detertnination/re-determination process. Consumers age 65 and older who have already been determined disabled by the Social Security Administration (SSA) are not required to have another disability review. They must, however, document the Social Security disability finding with either a SSA award letter or documentation from the SSA. Consumers under age 65 who have received either a Social Security disability finding or a Group I Disability Approval from HRA-DRD are also not required to have another disability review; but must provide documentation of disability findings.

The pooled trust criteria is set forth in section 1917(d) (4) (C) of the Social Security Act. The State Department of Health policy clarification is as follows:

A pooled trust contains the assets of a number of disabled individuals and is managed by a nonprofit organization that maintains separate accounts for each individual. The principal and income of a pooled trust account are not counted in determining Medicaid eligibility, and transfers of assets into such trusts are not penalized, unless they are made after the disabled individual becomes 65 years of age. The statutory language describes two types of exception trusts. The first is specifically required to have been created when the disabled individual was under the age of 65. The second has no such age limitation, indicating that the intent of the law is to exempt pooled trusts even if they were established when the disabled individual was age 65 or older.

The State Disability Review Team (SDRT) in Albany will make all final disability determinations for consumers aged 65 or over with pooled trusts. When submitting a case to SDRT, a complete disability detennination package must contain the following: a completed and signed LDSS-1151, Disability Interview (interview to be conducted by the eligibility worker, pre-screener or case manager with the applicant or a representative), and pages one and two of the DSS 486T Medical Report of Disability form (completed in their entirety) and all appropriate body system sections of the form. Include in the disability determination package a MAP 252F, The AIDS or AIDS Related Complex Medical Report form (only to be completed if relevant to the applicant's or consumer condition/disability).

All Medical forms must be completed and signed by a medical doctor, psychiatrist, or qualified psychologist, as applicable prior to submission. If the forms are received from providers unsigned, undated or otherwise incomplete, they will be returned for completion.

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Also include in the disability package all requested supporting medical evidence, such as hospital records, office notes and treatment records. It is important to gather supporting medical evidence that covers the timefrarne for which the disability determination is sought. An M I I q, Medical Request for Home Care, form **cannot be used as a substitute** for the DSS 486T/MAP 252F, but it can be included to further support the disability claim.

In addition, all types of trust documents submitted by applicants of all ages must also be reviewed and approved by HRA's Office of Legal Affairs/Civil Litigation Division (OLA/CLD) prior to an eligibility deterrnination/re-determination. The OLA/CLD review and disability determination will be done concurrently. Disability determinations are usually completed within 90 days, but can be extended if additional documentation is needed.

If the individual with a pooled trust is determined disabled and if OLA/CLD approves the trust, any of the disabled individual's income placed in his/her pooled trust account will be disregarded when determining Medicaid eligibility. **This disregard does not apply under chronic care budgeting.**

While there are no financial restrictions attached to the establishment or the addition of funds to an already-established pooled trust by a consumer **under the age of 65,** there are limitations as to the transfer of funds into a pooled trust by a consumer age 65 and older. If a disabled individual either first establishes or adds ftuids to an already existing pooled trust after s/he turns age 65, that transfer of assets is subject to the appropriate penalty period for Medicaid coverage of *nursing facility* services.

Organizations that are approved to submit centrally to MAP must submit disability review requests through those units. Home Care consumers must submit through their assigned CASA office.

MICSA has prepared protocols for the orderly review of cases for persons 65 and older who have already submitted applications with pooled trusts but who have not had a disability determination.

PLEASE SHARE THIS ALERT WITH ALL APPROPRIATE STAFF