NEW YORK STATE
DEPARTMENT OF SOCIAL SERVICES
40 NORTH PEARL STREET, ALBANY, NEW YORK 12243-0001

MARY JO BANE
Commissioner

(518) 474-9475

LOCAL COMMISSIONERS MEMORANDUM

DSS-4037EL (Rev. 9/89)

Transmittal No: 92 LCM-186

Date: December 4, 1992

Division: Health and Long Term Care

TO: **Local District Commissioners**

SUBJECT: Chapter 41 of the Laws of 1992: Delay in Implementation of Co-payments and February 1, 1993 Elimination of Coverage of Podiatrists' Services for Many Recipients

ATTACHMENTS:
1. Dear Medicaid Home Relief Recipient letter(on-line)
2. Dear Medicaid Recipient letter (on-line)
3. Podiatry Fact Sheet (on-line)
4. Podiatry Fact Sheet/Spanish (on-line)

An October 23, 1992 General Information System (GIS) message (92MA025) informed you of a delay in the implementation of co-payments and a delay in the elimination of coverage of podiatrists' services. The purpose of this Local Commissioners Memorandum (LCM) is to inform social services districts that implementation of co-payments continues to be delayed, but that elimination of coverage of podiatrists' services for many Medical Assistance (Medicaid) recipients will become effective on February 1, 1993.

I. Co-payments

Pursuant to 92 LCM-157, co-payments were to begin on December 1, 1992. However, the Federal Second Circuit Court of Appeals has stayed implementation of co-payments until arguments are heard on the appeal of the district court's decision to deny plaintiffs motion for a preliminary injunction. Until this matter is resolved by the courts, implementation of co-payments is on hold. Therefore, pursuant to GIS 92MA025, do not distribute the Medicaid Co-payment and Podiatry Fact Sheet referenced in 92 LCM-157 to MA eligibles. Also, the Department will not be issuing the recipient and provider notices referenced in 92 LCM-157.

II. Podiatry

Podiatrists' services (with two exceptions) were scheduled for elimination on December 1, 1992, the same time co-payments were to be implemented. The proposed notices to recipients addressed both co-payments and podiatry restrictions and could not be rewritten in sufficient time to address podiatry only. Therefore, due to noticing requirements, we were unable to implement podiatry restrictions on December 1, 1992.

The Department will now eliminate coverage of podiatrists' services for many recipients starting February 1, 1993. A Department mailing explaining the new podiatry program requirements will take place in late December. The mailing will be sent to all Public Assistance (PA) and Medical Assistance Only (MA-Only) heads of households and will include all recipients determined eligible as of December 18, 1992 with eligibility on January 1, 1993. The Dear Recipient lettters that will be mailed are attached to this LCM for your reference.

Effective December 21, 1992 local districts must include the attached **Medicaid Podiatry Fact Sheet** with all State-mandated acceptance notices to PA and MA-Only recipients. The Fact Sheet should also be included with any notice informing recipients of a change in their category of assistance.

There are two exceptions to the elimination of podiatry services. New York State Medicaid will continue direct payments to enrolled podiatrists for medically necessary foot care only under the following circumstances:

1. Services to children (under age 21) upon the written referral of a physician, physician's assistant, nurse practitioner, or nurse midwife.

2. The Medicare coinsurance and deductible will continue to be paid for Medicaid recipients considered to be Qualified Medicare Beneficiaries (QMBs). A QMB is an individual eligible for Medicare who meets federally established income and resource levels. At the present time, podiatrists can consider any Medicaid recipient who has Medicare coverage to meet this criteria.

Nursing facilities, Intermediate Care Facilities for the Developmentally Disabled (ICF/DD's), and Article 28 or Article 31 inpatient facilities and certified clinics which include foot care services in the rate established for medical care for Medicaid recipients will continue to receive payments for these services through their rates. Podiatrists salaried by these facilities will not be affected by the legislative change in covered services. Additionally, Medicaid will continue to pay for medically necessary items and supplies (e.g., prescription drugs) for all recipients when ordered by a private practicing podiatrist.

III. SUMMARY OF PROGRAM CHANGES

Starting on December 21, 1992 social services districts must include the attached **Podiatry Fact Sheet** in both acceptance and category change notices for all PA and MA-Only cases. An administrative directive will follow describing required action.

Questions regarding podiatry or the delay in implementing co-payments may be directed to Joseph Kudner at 1-800-342-3715, extension 3-5954, user Id AY0960.

Gregory M. Kaladjian
Executive Deputy Commissioner

ATTACHMENT I

Dear Medicaid Home Relief Recipient:

In May, 1992, we sent a letter to all Medical Assistance (Medicaid) recipients informing them of changes to the Medicaid Program because of a new law. If you were eligible for Medicaid in May, you should have received this letter. One of the changes to the Medicaid Program is Medicaid would no longer pay for podiatry services, except under certain conditions. The change in coverage of podiatry services was delayed because of a court order, but we have been advised that we may now make this change.

IT IS IMPORTANT THAT YOU READ THIS LETTER TO UNDERSTAND THIS CHANGE AND THAT YOU SAVE THIS LETTER FOR FUTURE USE

Starting on February 1, 1993, Medicaid coverage of podiatry services by private practicing podiatrists will change.

1. **For recipients under 21 years old**, Medicaid will pay for your care if a physician, nurse practitioner or nurse midwife orders the care in writing.

2. **For recipients over 21 years of age, and who have Medicare coverage**, Medicaid will continue to pay for care provided by a podiatrist participating in the Medicaid Program.

3. **For recipients over 21 years of age, who do not have Medicare coverage**, Medicaid will not pay directly for care provided by private practicing podiatrists. Medically necessary foot care may be provided by some clinics and physicians who offer the care.

NOTE: Medicaid will pay for medically necessary items and supplies such as prescription drugs for all recipients when ordered by a private practicing podiatrist.

FAIR HEARINGS: See the attachment for your fair hearing rights. The hearing officer at the hearing may decide that you did not have the right to a hearing if you are only complaining about the change in State law.

ATTACHMENT II

Dear Medicaid Recipient:

In May, 1992, we sent a letter to all Medical Assistance (Medicaid) recipients informing them of changes to the Medicaid Program because of a new law. If you were eligible for Medicaid in May, you should have received this letter. One of the changes to the Medicaid Program is Medicaid would no longer pay for podiatry services, except under certain conditions. The change in coverage of podiatry services was delayed because of a court order, but we have been advised that we may now make this change.

IT IS IMPORTANT THAT YOU READ THIS LETTER TO UNDERSTAND THIS CHANGE AND THAT YOU SAVE THIS LETTER FOR FUTURE USE

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1. **For recipients under 21 years old,** Medicaid will pay for your care if a physician, nurse practitioner or nurse midwife orders the care in writing.

2. **For recipients over 21 years of age, and who have Medicare coverage,** Medicaid will continue to pay for care provided by a podiatrist participating in the Medicaid Program.

3. **For recipients over 21 years of age, who do not have Medicare coverage,** Medicaid will not pay directly for care provided by private practicing podiatrists. Medically necessary foot care may be provided by some clinics and physicians who offer the care.

NOTE: Medicaid will pay for medically necessary items and supplies such as prescription drugs for all recipients when ordered by a private practicing podiatrist.

FAIR HEARINGS: See the attachment for your fair hearing rights. The hearing officer at the hearing may decide that you did not have the right to a hearing if you are only complaining about the change in State law.

Sincerely,

Gregory M. Kaladjian
Executive Deputy Commissioner

ATTACHMENT III

MEDICAID PODIATRY FACT SHEET

Starting on February 1, 1993, Medicaid coverage of podiatry services by private practicing podiatrists will change.

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2. **For recipients over 21 years of age, and who have Medicare coverage**, Medicaid will continue to pay for care provided by a podiatrist participating in the Medicaid Program.

3. **For recipients over 21 years of age, who do not have Medicare coverage**, Medicaid will not pay directly for care provided by private practicing podiatrists. Medically necessary foot care may be provided by some clinics and physicians who offer the care.

NOTE: Medicaid will pay for medically necessary items and supplies such as prescription drugs for all recipients when ordered by a private practicing podiatrist.

HOJA DE DATOS DEL MEDICAID SOBRE EL CUIDADO DE LOS PIES

CUIDADO DE LOS PIES

A partir del primero de febrero de 1993, habrá cambios en la cobertura de los servicios de pedicuría (cuidado de los pies) prestados por podiatras o pedicuros de práctica privada.

1. **Si el beneficiario(a) es menor de 21 años de edad**, el Medicaid pagará por el cuidado de los pies si éste es ordenado por escrito por un médico, una enfermera practicante o una comadrona.

2. **Si el beneficiario(a) es mayor de 21 años de edad, y recibe el Medicare**, el Medicaid continuará pagando los servicios prestados por un pedicuro participante en el Programa del Medicaid.

3. **Si el beneficiario(a) es mayor de 21 años de edad, pero no recibe el Medicare**, el Medicaid no pagará los servicios prestados por pedicuros de práctica privada. Los cuidados de los pies que sean médicamente necesarios, deben ser provistos por clínicas y médicos especializados en ese tipo de servicios.

NOTA: El Medicaid continuará pagando los medicamentos y artículos médicos que hayan sido prescritos u ordenados por un pedicuro de práctica privada y que se le suministren a cualquier tipo de beneficiario(a).