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| LOCAL COMMISSIONERS MEMORANDUM |
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DSS-4037EL (Rev. 9/89)

Transmittal No: 93 LCM-26

Date: March 22, 1993

Division: Commissioner's
Office

TO: Local District Commissioners

SUBJECT: HIV/AIDS: Confidentiality of Information and Availability
of Resources

ATTACHMENTS: HIV/AIDS Resources Materials - Brochure
(Not Available on-line)

A. Confidentially of Information

The Department wishes to emphasize that the information contained in client records is subject to strict rules of confidentiality. Recent legislation, amendments to 18 NYCRR, and Department directives provide clear rules for handling confidential HIV-related information, including disclosure and emphasize the need to assure that confidential HIV-related information is not improperly disclosed. Recent complaints concerning improper disclosure of such information prompts this restatement of Department policy.

According to DSS regulations, HIV-related information will be made available to and limited to those who need such information to properly perform their professional or official duties. A principal purpose of these regulations is to prohibit improper access and improper disclosure of confidential HIV information. The regulations address situations wherein an employee from NYSDSS, a social service district or an authorized voluntary agency may have access to confidential HIV-related information. Only those who, in the ordinary course of business of the agency, have access to records relating to care, treatment, or providing services to the individual should have access to confidential HIV-related information.

DSS staff are charged with the responsibility of safeguarding confidential HIV-related information. This includes making sure procedures are established for giving confidential HIV-related information only to authorized persons and for securing records that are stored in general files or stored electronically. Each social services district must adopt safeguards "which prevent discrimination or adverse action against individuals with AIDS or an HIV infection or an HIV-related illness and individuals who have had an HIV-related test." {See 18 NYCRR Secs. 303.7 and 404.1}

Local social services districts should review their policies and procedures as they relate to confidentiality and ensure that the following issues are addressed:

- (1) responsibilities of staff to safeguard confidential information pursuant to statute, regulation, and policy;
- (2) procedures for properly informing clients of records collection, access, utilization, and dissemination;
- (3) agency policies and practices applicable to confidential information;
- (4) procedures governing employee access to confidential information; and
- (5) disciplinary actions for violations of confidentiality statutes, regulations, and policies.

Additionally, local districts should provide all staff with a copy of 88 LCM-43 "Non-Discrimination Policy Concerning HIV and AIDS", which was issued on December 22, 1988.

B. Available Resources

The Department has developed a variety of HIV/AIDS resource materials for use by social services districts, health care providers, human services professionals, and clients. Some of these materials have been announced or distributed through previous Local Commissioners Memoranda; other materials have been distributed at training sessions that your staff may have attended.

HIV/AIDS resource materials currently available from the NYSDSS are briefly described in the attached brochure. You can find further descriptions of the in-service curriculum and the video for home care workers in 91 LCM-93. In addition, please consult 92 LCM-156 for information about a brochure, poster, and Fact Sheets explaining the AIDS Health Insurance Program (AHIP).

It is important that staff who may be involved in eligibility or service related activities for individuals with AIDS or HIV-related disease be aware of available HIV/AIDS resource materials and have access to these materials. Therefore, if your district does not already have protocols in place for sharing or distributing resource materials to appropriate staff, I encourage you to develop such protocols.

For more information on a specific HIV/AIDS resource, you may contact the NYSDSS Resource Center at 1-800-342-3715, extension 3-8320.

Gregory M. Kaladjian
Executive Deputy Commissioner