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

Transmittal No: 97 LCM-26

Date: April 1, 1997

Division: OFFICE OF
DISABILITY
DETERMINATIONS

TO: Local District Commissioners

SUBJECT: MEDICAID DISABILITY REVIEWS: INDIVIDUALS WITH SUBSTANCE
ADDICTION DISORDERS

ATTACHMENTS: NONE

This Local Commissioner Memorandum (LCM), provides local districts with additional information regarding the provision of The Contract With America Advancement Act which specifies that an individual is not considered to be disabled if drug addiction or alcoholism (DAA) is a contributing factor material to the decision that the individual is disabled. Instructions on how to perform disability reviews under the new provision were issued in 96 LCM-60. This LCM provides a clarification of policy on the disability review process using the sequential evaluation process as performed by Medicaid Disability Review Teams (DRT), and the importance of gathering complete medical documentation for individuals with substance addictions disorders.

96 LCM-60 indicated that if an individual with a substance abuse impairment (drug addiction and/or alcoholism) has an additional or co-existing impairment other than substance abuse, the disability review team should assess the case using the sequential evaluation process and consider those physical and mental impairments that would be expected to remain if substance abuse were to stop. The Social Security Administration (SSA) has provided a policy clarification that was presented at regional training for local district Medicaid review teams in October of 1996. The policy clarification indicates that if the disability reviewer is unable to separate the effects of the substance abuse on the ability to work from work related dysfunction caused by other impairments, e.g., a co-existing mental disorder such as depression, the reviewer should not use DAA as a basis to find that this individual is not disabled. This information will be included in a forthcoming update to the Medical Assistance Disability Manual.

Many individuals with substance abuse disorders have co-existing mental impairments such as anxiety, personality, or depressive disorders. It is difficult in many such cases to distinguish between impairment of work

related function caused by DAA from the dysfunction caused by other mental and/or physical impairments. This policy recognizes the difficulty inherent in making such a projection. The individual's deficits and mental functional capacity should be evaluated as a whole.

DISABILITY REVIEW TEAM INSTRUCTIONS

1. Determine whether there is a medical diagnosis in the medical records other than substance abuse. If not, deny disability. Consider requesting additional medical evidence including a mental status exam if there is an indication that there may be another potentially disabling impairment that can be documented. The best sources of this information frequently are the providers who have treated the individual in the 12 months prior to the application.
2. If there is a diagnosis in the file other than substance abuse, assess disability using the sequential evaluation process considering all existing severe physical and mental impairments that are expected to meet the 12 month duration requirement. A case that meets the Listings for any impairment may be approved on that basis even if the diagnosis is related to substance abuse (e.g., organic mental disease). If the case does not meet or equal the medical listings for the impairments documented in the file, assess physical and/or mental residual functional capacity to perform past relevant work or any other work in the usual manner. If the reviewer is unable to separate the deficits due to substance abuse from the deficits due to other impairments, then substance abuse is not considered material to the decision. Functional capacity is then evaluated using the DSS-3817, Mental Residual Functional Capacity Assessment.

MEDICAL EVIDENCE AND DOCUMENTATION

This clarification of the evaluation process may allow disability review teams to find individuals with substance addiction disorders to be found disabled if a concurrent diagnosis is documented. This is especially true in cases where the individual has a co-existing mental impairment. Therefore, it is important that local districts make every effort to ensure that the disability review team has all the relevant medical information that can be obtained. These efforts should include: more thorough questioning of applicants who indicate they are substance abusers to determine if they may have other potentially disabling impairments that need to be documented and evaluated; authorizing consultative exams to obtain medical information about other impairments; obtaining the adjudicated claim file history for current or former recipients to identify other potentially disabling impairments and treating sources who can provide medical evidence about these impairments.

Please contact your Medicaid Disability Review Team representative if you have questions about the contents of this memorandum.

James E. Coseo
Associate Commissioner
Office of Disability Determinations