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PROGRAM INSTRUCTION	**Number 13-PI-26**
	Supersedes
	Expiration Date

DATE: October 24, 2013

TO: Area Agency on Aging (AAA) Directors and EISEP Case Manager Supervisors

SUBJECT: Expanded In-home Services for the Elderly Program (EISEP) Funded Ancillary Services

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ACTION REQUESTED: Area Agencies on Aging (AAAs) should carefully review the changes in the EISEP regulations described in this PI and consider the implications for the operations of EISEP-funded ancillary services in their county. If an AAA chooses to provide ancillary services, then the agency is required to meet these requirements in the regulations and those described in this Program Instruction.

PURPOSE:

- To transmit copies of revised regulations for EISEP Ancillary Services.
- Provide an overview of the revised regulations.
- Provide guidance for implementation of the revised regulations.

BACKGROUND: When the Expanded In-home Services for the Elderly Program (EISEP) was established in 1986 it included ancillary services--a flexible service category that allows AAAs to provide EISEP clients additional services to address their unique needs and further enable them to remain safely at home. However, there were service delivery and expenditure parameters within which AAAs had to operate. Over time and through discussions with AAAs, NYSOFA determined that these parameters sometimes restricted flexibility so that the breadth of services provided under ancillary services was more limited than intended, that the expenditure levels were well below the limit and in fact, many AAAs chose not to fund ancillary services. In order to

address these unintended consequences and enable AAAs to support maximizing of client independence, choices, and preferences in service delivery decisions, and also give AAAs the ability to use its EISEP funding as efficiently and effectively as possible, NYSOFA has revised the regulations. The purpose of this Program Instruction is to explain these revisions to the regulations, the accompanying changes to policies and procedures, and also to describe service delivery decisions, vouchering procedures, and reporting procedures.

I. OVERVIEW OF THE REVISED REGULATIONS

The following is a review of the major components of the revised ancillary services regulations found in 9 NYCRR §6654.19. This includes the identification of the new components and why these changes were made, as well as those that have not changed since they continue to be consistent with the overall design of EISEP and the requirements for all EISEP funded services.

A. The components of the regulations that have changed (i.e., are new, have been removed, or have been further clarified) and the reasons for these changes are as follows:

- <u>Ancillary services are now defined:</u>

  A definition for ancillary services is included in the revision in order to provide clarity to the purpose of ancillary services. This service category includes non-medical services, items, and other supports, which together with other assistance are intended to provide an individual in need of long term services and support with the ability to remain safely in the community with an acceptable quality of life.

- <u>The in-home services requirement has been removed:</u>

  Prior to this revision, a person had to be receiving home care from some source – EISEP, another program, or informal caregivers. The reasons were twofold. First, at the time EISEP was implemented, it was thought that in-home services were at the core of addressing functional impairments of individuals with long term care needs. Second, ancillary services were really seen as a way of supplementing/supporting the home care. Over time, we have come to learn that there are multiple ways of addressing needs, and that individual differences and preferences are important to consider in order to maximize a person's independence, which is critical to their quality of life. With the expansion of and changes to ancillary services, AAAs have the opportunity to use ancillary services, items and goods, alone or in conjunction with in-home services to address needs in a variety of ways.

- The one-time only requirement has been removed:

  Prior to this revision, the only ancillary service that AAAs could offer EISEP clients on an on-going basis was Personal Emergency Response System (PERS). Additional flexibility in the duration as well as the types of services offered to clients will now be possible to support an individual's ability to remain safely at home.

- The maximum expenditure allowance percentage is no longer addressed in the ancillary services section:

  The maximum allowable expenditures for ancillary services, items, and goods has been increased to 33 percent and may now be found in 9 NYCRR §6655.7(e). This increase will further enhance the ability of AAAs to provide additional ancillary services, items, and goods. A detailed description of this change may be found in 10-PI-06.

- The services, goods, and items that may be funded under ancillary services have been expanded and further clarified:

  Three broad purposes of the services, goods, and items that can be provided, and examples of what falls under each one, as well as what cannot be provided under ancillary services are laid out in the revised version of the regulations.

B. The following are the services, goods, and items that are allowable under EISEP Ancillary Services. Some of these had been allowed prior to these changes, but many are new. The particular services, items, and goods are illustrative only and are not intended to constrain flexibility or creativity when developing a care plan.

- Those that maintain or promote the individual's independence such as:

  Purchasing/renting of equipment or assistive devices;
  Purchasing/renting, maintaining and repair of appliances;
  Personal and household items;
  Social adult day services; and
  Transportation to needed medical appointments, community services, and activities.

- Those that maintain, repair or modify the individual's home so that it is a safe and adequate living environment, such as:

  Home maintenance and chores;
  Heavy house cleaning; and
  Removal of physical barriers.

- Those that address everyday tasks that help to maintain the client in their community such as:

  House cleaning;
  Laundry;
  Grocery shopping, shopping for other needed items and other essential errands;
  Bill paying and other essential activities;
  Providing meals; and
  Escort to appointments and other community activities.

C. The following services, items, and goods were not allowable before the revisions and continue to **not** be allowed:

- Food, except for meals provided under the nutrition program administered by an AAA or other meals that the AAA has determined meet the nutritional requirements of such program;

- Housing expenses which include, but are not limited to, expenditures for rent, mortgage, property taxes, heating fuel, gas, electricity, water, sewage, garbage collection, cable television and telephone services; and

- Items or services that can be obtained only with a prescription or doctor's order.

D. The following components of the ancillary services regulations have remained the same:

- Services, items and goods may only be provided pursuant to a care plan developed by the AAA and/or their subcontractors:

  AAAs and their subcontractors will continue to develop client care plans based on an assessment/reassessment using the NYSOFA minimum data set that reflects the unique set of goals and needs of each eligible individual and the appropriate services to meet those goals and needs. With the regulatory revisions that expand the array of allowable services, items and goods under EISEP Ancillary Services, AAAs now have additional resources to address client needs. These revisions also provided clarity on the types and purposes of allowable services within a care plan.

- Care plans must be based on an assessment and reassessments:

  EISEP clients must be reassessed at least annually to insure that their current care plan continues to be appropriate and meet their needs. As

needs and circumstances change, so does the care plan. Ancillary services, items, and goods are part of the care plan, and thus, they may change according to changing client need.

- EISEP funds may only be used if no other source of funds is available:

  EISEP funds are used as a last resort. Thus, individuals who can be served under another program should not be served using EISEP funds. Similarly, if an EISEP client can receive a service, item, or good from a source other than EISEP Ancillary Services, that source must be pursued. A service, good, or item may be provided under EISEP only if it is not available to the person from any other funding source.

- Provision of ancillary services must be guided by AAA policies and procedures:

  The AAAs must have written policies and procedures for the justification and documentation of any ancillary services provided. These will provide guidance to staff and help to ensure that decisions regarding ancillary services are made in a consistent, fair, and equitable manner.

- Receipt of ancillary services, items, and goods must be documented in the client file:

  The client's case record maintained by the case manager must document that the client received the ancillary service, items, and goods. For one time goods and services, this is based on a verification that the client received the item/good and that it is of an acceptable quality.

- There must be an agreement for any items or alterations left in the client's home regarding ownership and responsibility:

  For any client that receives an item or alteration that will be left in their home for an extended period of time or permanently, the AAA must have a signed agreement with the client that identifies who owns the items or alteration, and the responsibilities of the client, the AAA, and any other involved parties. Moveable items remain the property of the AAA until the AAA determines that it has no appreciable value. Once the AAA determines that the items no longer have an appreciable value, those items may be written off by the AAA and the AAA is no longer obligated to retrieve the items after the client is no longer using them.

II. POLICIES AND PROCEDURES

The regulations require that each AAA that provides ancillary services have written policies and procedures. There is a wide array of services, goods, and items that may be provided under ancillary services; and while some policies and procedures may be applicable for more than one type of ancillary service, some may be more limited. AAAs must consider this as they review/develop their policies and procedures and ensure that they have policies and procedures that are appropriate and applicable for the ancillary services that they provide.
Furthermore, the policies and procedures must be complete and up to date, and the AAAs must modify them as needed. Any references in these policies and procedures to other EISEP policies and procedures, must be properly noted so that any staff using the ancillary services policies and procedures can identify the other policies and procedures they must follow.

At a minimum, AAAs policies and procedures for ancillary services must address the following:

- Service delivery decisions will be based on the client assessment;
- Ancillary services to be provided are included in the care plan;
- EISEP funds for the specific ancillary service may only be used if no other funding is available;
- A written agreement between the AAA and the client regarding ownership and responsibility of any good or item left in the client's home for an extended period of time is required;
- How service provision will be verified and documented, including how case management meeting EISEP requirements will be provided;
- A description of the goods, items and services to be provided and the criteria that will be used to determine client eligibility/appropriateness for various services/items;
- The actual steps that will be followed by staff who will be determining, authorizing and monitoring ancillary services, including the use of any forms and a description of these forms;
- Title of the policy and procedure;
- Statement of policy;
- Notations as appropriate to other sections of laws and regulations;
- The policy dates, (i.e. effective date, last review date, next expected review date);
- Staff responsible for maintaining policies and procedures;
- List of services and items to be available;
- Criteria for determining how services and items are available to the client;
- Waiting list protocols; and
- List of forms used for ancillary services.

Procedure for Submitting Policies and Procedures:

AAAs already providing ancillary services should carefully review the policies and procedures they currently have and make any changes necessary to comply with the stated requirements. AAAs that are already providing or intend to provide ancillary services and do not yet have written policies and procedures must develop them.

Any AAAs that include plans to provide ancillary services for the first time in future AIPs must submit their policies and procedures for approval during the first quarter of that State Fiscal Year (SFY) to NYSOFA.

III. SERVICE DELIVERY DECISIONS

The expansion of ancillary services as reflected in the revised regulations provides increased opportunities to address client needs in ways that are sensitive to individual wishes and preferences to maintain and support independence and autonomy, and promote cost-effective solutions. At the same time, an AAA that chooses to make use of this expansion is also presented with the challenge to plan and provide these services in a fair and equitable manner that is reasonable and understandable to those being served, their caregivers, and the public-at-large, and that provides assistance to as many clients as possible.

For other services under EISEP, NYSOFA does not permit AAAs to establish a per client "cap" on either units or expenditures. Rather, service delivery decisions, as reflected in a client's care plan, are based on the information gathered during the assessment process and ongoing interactions with the client and others. However, for ancillary services, because it includes such a wide range of goods and services with varying costs and frequency of services delivery, NYSOFA will permit AAAs to establish expenditure caps to help make service delivery decisions. AAAs choosing to implement some type of cap would describe the cap and how it works in their ancillary services policies and procedures.

There are many different approaches to setting caps. Each has advantages and disadvantages, some are more complicated than others, and some may be more appropriate for some types of ancillary services than for others.

Some of the advantages of capping services are:

- Prevent funds from being used to serve only a few clients;
- Help to ensure that funds are available throughout the year;
- Decreases the opportunity for funds to be used in a capricious or unfair manner; and
- Provides program guidance.

Some of the disadvantages of capping services are:

- Service decisions are not completely based on the needs of the client and as indicated in the care plan; and
- Setting a cap might limit experience and learning on which to base future decisions.

The following are some considerations that should be contemplated before deciding to set caps for ancillary services:

- The type of cap to be set. (e.g. annual cap, lifetime cap per client, quarterly cap, etc);
- The amount of flexibility (if any) that is built into the cap; and
- If the cap will be uniform across all ancillary services or if specific types of services will be capped.

AAAs that choose not to establish a system that uses caps for ancillary services must still develop a process that can withstand public scrutiny. The following are considerations that may aid this effort:

- Development of a system that would identify those clients whose needs are critical/urgent with respect to maintaining independence (living at home or non-institutional). For example, client A is assessed as requiring an assistive device to prevent falls, versus Client B who would benefit from more frequent house cleaning;
- For more expensive goods or services (e.g., home modifications, certain appliances), AAAs' use of the county purchasing system will enable the AAA to obtain these goods/services at competitive prices, which, in turn, will maximize funding to more older adults in need of services.
- Conduct an analysis to determine the benefits of buying or leasing equipment (factoring in such costs as insurance, storage, and repair); and
- Identify whether or not clients are still in need of the services that they are receiving.

IV. VOUCHERING PROCEDURES

The vouchering procedure for EISEP includes the following major features:

- Upon issuance of a Notification of Grant Award (NGA) the AAA is eligible to receive an advance of up to 25 percent of its award. For any award under $5,000 the AAA may receive an advance up to 50 percent. For "Other" programs, the NGA will detail the advance percentage. Note the advance claim must be the first claim submitted for the grant period. **Advance claims must be submitted within 30 days of the beginning of the grant period or within 30 days of the issuance of the NGA, whichever is later.** No advance request will be honored after a reimbursement claim has been paid for a given program period.

- After the initial advance, claims are submitted on a reimbursement basis. Expenditure data reported on the claims must reflect costs incurred and paid. Expenditures reported on the closeout voucher will be made after the end of the program and reporting period.

- If an AAA chooses to receive an initial advance, then it may report advances to contractors on subsequent Fiscal Reporting Forms. The advance to a particular contractor cannot exceed 25 percent (or 50 percent where applicable) of the contractor's award and the advances must be recouped by the end of the grant period. At the end of each grant period, any unexpended advance balance must be repaid to NYSOFA. By law, State funds lapse on September 15 and cannot be carried over.

- Copies of receipts and proofs of payment do not have to be submitted. However, the original documentation must be maintained by the AAA.

- Generally, claims are submitted quarterly and are due within 30 days after the end of the reporting period. The final claims must be submitted no later than the 30th of June following the end of the grant period.

- The vouchering forms contain comparisons of expenditures to budgeted amounts and include a section showing the status of any outstanding advance.

- A **Claim for Payment should not be submitted for any amount less than $500;** however, an exception would be a closeout voucher but it should be avoided if possible.

- NYSOFA will NOT process a reimbursement voucher, when a budget category has been exceeded beyond 10 percent or $1,000 (whichever is greater.) An approved budget modification will be required prior to the voucher being paid. The voucher will be held at NYSOFA on “stop the clock” status.

V. REPORTING PROCEDURES

Reporting of ancillary services funded under EISEP and Community Services for the Elderly (CSE) follows the reporting procedures already in place for CAARS and client data.

For the CAARS quarterly report there are two areas affected. Both are reported each quarter:

Under Part II - Program Information, A. EISEP Other Services (April 1 to date) for Goods and Services the AAA is required to report the number of Persons Served, the Units of Service provided and the Expenditures for each of these six goods and services areas:

1. Home Modifications
2. Home Maintenance/Repair
3. Assistive Devices/Equipment
4. Household Appliances
5. Misc. Personal Items
6. Other Describe

Descriptions of the goods and services areas can be found on page 6 of the Reporting Guide Consolidated Area Agency Reporting System (CAARS).

Under Part III - Program Services Expenditure Breakdown – Federal/State Programs expenditures are entered under the applicable program column, EISEP on the appropriate service line.

The client-based software used by your county is designed to provide data entry and reporting for all allowable services provided under EISEP. This information, once entered, is then available for many uses, including populating the care plan section of the assessment. If you do not use your software's care plan function, this information, which is an MDS requirement, must be manually entered into the client's care plan.

VI. SUMMARY/NEXT STEPS

Under the revised EISEP regulations, ancillary services have been expanded to provide the opportunity to purchase or provide additional and varied services (such as laundry services, shopping services and transportation services). In addition, many of the barriers to maximizing the use of ancillary services, such as the in-home services requirement and the one-time only requirement, have been removed.

While caps are not allowed in other services, if necessary, in order to assist AAAs to better manage expenditures under the newly expanded ancillary services category, AAAs may cap the dollar amount spent on each client for ancillary services. Please remember that AAAs are not required to cap the amount of ancillary services provided to each client; however, each AAA must have a process in place that ensures proper and equitable distribution of ancillary services to clients needing such services.

Providing an expanded array of ancillary services is not mandatory and the decision to offer an expanded array of ancillary services lies with each individual AAA. However, any AAA that plans to provide ancillary services for the first time, must in future AIPs submit their policies and procedures for approval during the first quarter of that SFY to NYSOFA. Each of the submitted policies and procedures will be reviewed and approved by NYSOFA. Each AAA will be notified by NYSOFA when their ancillary services policies and procedures have been approved by NYSOFA.

PROGRAMS AFFECTED: ☐ Title III-B ☐ Title III-C-1 ☐ Title III-C-2

☐ Title III-D ☐ Title III-E X CSE ☐ SNAP ☐ Energy

X EISEP ☐ NSIP ☐ Title V ☐ HIICAP ☐ LTCOP

☐ Other:

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