

## 82 INF-006 (Adult Services)

Revised Definition for Protective Services for Adults (PSA) contained in the Statewide Consolidated Services Plan and Part 457 of the Department's regulations



NEW YORK STATE  
**DEPARTMENT OF SOCIAL SERVICES**  
 40 NORTH PEARL STREET, ALBANY, NEW YORK 12243-0001  
 BARBARA B. BLUM  
 Commissioner



(An Informational Letter informs local districts of potential developments in the Social Services field, or of actual or potential developments in collateral fields of interest.)

**INFORMATIONAL LETTER**

TRANSMITTAL NO: 82 INF-006  
 (Adult Services)

TO: Commissioners of Social Services

SUBJECT: Revised definition for Protective Services for Adults (PSA) contained in the Statewide Consolidated Services Plan and Part 457 of the Department's regulations

DATE: March 16, 1982

SUGGESTED  
 DISTRIBUTION:

Commissioners	Accounting Staff
Directors of Social Services	County Attorneys
PSA Staff	Directors of Area Agencies for the Aging
Medical Assistance Staff	

CONTACT PERSON: Any questions concerning Protective Services for Adults should be directed to Christina Hay, Division of Adult Services by calling (800) 342-3715, ext. 3-1713, Sharon Lane, ext. 38728 or Irv Abelman (212) 488-5097. Questions regarding the establishment of Medical Assistance eligibility should be addressed to the MA county representative at (800) 3423715, ext. 3-4208. Questions regarding the provision of home care services should be addressed to the home care staff person assigned to each county at (800) 342-3715, ext. 4-9451.

I. PURPOSE

The purpose of this letter is to inform the local social services districts of the revised definition for Protective Services for Adults (PSA). The definition now permits the extended provision of homemaker and housekeeper/chore services as an integral but subordinate component of this service, in certain limited situations dependent on the district's prompt attention to the financial management needs of the client.

II. BACKGROUND

The basic definition for PSA was established in 1975. In general, this definition has proved adequate, but a few specific changes have been made to enable PSA to be more responsive to the needs of clients. Prior to 1977 there was no provision for the authorization of homemaker and housekeeper/chore services as a component of PSA. However, the PSA definition was amended effective April 1, 1977, to authorize the provision of homemaker and housekeeper/chore services for 60 days without regard to income, as an integral but subordinate part of the service. This amendment was necessitated by the need to expand the local district's capacity to alleviate crisis situations and

FILING REFERENCES

Previous ADMs/INFs	Department Regs.	Soc. Serv. Law & Other Legal Ref.	Bulletin/Chapter Ref.	Misc. Ref. 1981-82 Statewide Consolidated Svcs Plan
	457	473 SSL	194	

enable incapacitated persons to remain in their own homes through the provision of homemaker and housekeeper/chore services. Such in-home assistance may prevent unnecessary institutionalization and permits a period of observation to enable the local districts to develop a more precise plan of service for the client. Because it was determined that 60 days was often an insufficient period of observation to develop a meaningful service plan, the PSA definition was further amended effective October 1, 1977, to permit the provision of homemaker and housekeeper/chore services without regard to income for up to six months.

In the majority of cases, local districts have found that providing homemaker and housekeeper/chore services for six months, without regard to income, gives them sufficient time to plan for the continuing services needs of PSA clients. During this time the client's needs are assessed and if there is a continuing need for homemaker and housekeeper/chore services, other resources are found to provide these services. For many clients who are programmatically eligible for Title XIX funded Home Care services, this means establishing their eligibility for Medicaid. For those clients whose assets and/or income exceed the Medicaid eligibility levels, this means working with the clients and concerned family members, if any, to encourage the clients to pay for the needed services until they have spent down to the appropriate Medicaid eligibility level.

There remains, however, a number of PSA clients who lack the capacity to act on their own behalf and are unwilling and/or unable to appropriately utilize their resources to meet their continuing service needs. For the majority of such clients, it is necessary for the districts to provide financial management services, sometimes petitioning the court for the appointment of a conservator. In many cases this legal process is lengthy, requiring more than six months.

In order to address these situations, the Department has again amended the PSA definition effective October 1, 1980. The definition now permits the provision of homemaker and housekeeper/chore services up to a maximum of 12 months without regard to income, but only under very limited circumstances dependent on the district's prompt attention to the financial management needs of the client.

### III. PROGRAM IMPLICATIONS

The PSA definition contained in the Statewide Consolidated Services Plan and Part 457 of the Department regulations now states:

"Providing homemaker and housekeeper/chore services when provided as an integral but subordinate part in the provision of PSA to meet the goal of protection for adults who demonstrate specified functional deficits. The provision of such services to be limited to six months when provided without regard to financial criteria. When such services are available through other public or private community resources, these should be utilized. The provision of these services beyond six (6) months may be authorized on a case-by-case basis under the following conditions:

- 1) Conservatorship or other financial management proceedings have been started within the first 60 days of the provision of PSA services; and
- 2) The local district must accept the responsibility to function as a conservator, representative payee or protective payee on behalf of a PSA client if no other resources are available within 45 days of a determination by either:
  - (i) A court that a conservator is required;
  - (ii) An office of the Federal Social Security Administration or the Railroad Retirement System that a representative payee is required; or
  - (iii) The social services district that a protective payee is required.

Under these conditions the provision of homemaker and housekeeper/chore services without regard to financial criteria may be continued beyond six months until the conservatorship or other financial management proceedings are completed, except in no case shall such services be authorized to continue for a period of more than three months subject to one reauthorization not to exceed an additional three months." As a result of this revised definition, the total authorizations, including the initial six month and the two, three-month reauthorizations permissible under the conditions set forth above, shall not exceed twelve months.

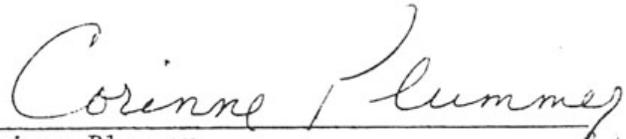
#### IV. RECOMMENDED ACTION

In order to effectively utilize home care services and the additional flexibility afforded by the revised PSA definition, it is recommended that the local district should promptly initiate efforts to determine the income and resources of the PSA client. Based on that determination, it is recommended that action be taken as follows:

- 1) If the client has been determined to be eligible for Title XIX, Medical Assistance, eligibility for home care service under that title should be determined in accordance with applicable department regulations. If the client is programmatically eligible for home care, under that Title, Title XX funds should not be used for provision of homemaker and housekeeper/chore services.
- 2) If the client has not been determined eligible for Title XIX, Medical Assistance, but it appears that the client might be eligible for services under that Title, an application should be completed in accordance with applicable Department Regulations. Assistance should be provided in obtaining the necessary documentation for the application, explaining the eligibility decision to the client and planning for the use of income and resources to assure continuing eligibility. When such eligibility is determined,

proceed as outlined in 1) above. While eligibility for Title XIX services is being sought, homemaker/housekeeper services should be provided under Title XX. In order to maximize Title XIX resources, the homemaker/housekeeper services should be provided in accordance with programmatic eligibility requirements for personal care services outlined in applicable department regulations. If such medical requirements are met, the cost of providing the service can be claimed retroactively as a medical service when Title XIX eligibility is determined.

- 3) If the client is determined not eligible for Medical Assistance and refuses to utilize his income and resources to meet his services needs, the district should work with the individual and interested family members and/or friends to encourage the client to utilize these financial resources to provide needed services. During this period homemaker and/or housekeeper services under Title XX should be provided. If the client continues to refuse after such intervention, and it is determined that the client does not have the capacity to act in his best interest, the appropriate financial management proceedings should be initiated in accordance with the revised definition. Also, please note that these proceedings must be initiated within 60 days of the person's receipt of PSA in order for the district to authorize the extended provision of homemaker and housekeeper/ chore services as permitted by the revised definition.



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Corinne Plummer  
Deputy Commissioner  
Division of Adult Services