

87 INF-005

Interagency Agreement Between the
Department of Social Services and
the Office of Mental Health
on Discharge Planning



NEW YORK STATE
DEPARTMENT OF SOCIAL SERVICES
 40 NORTH PEARL STREET, ALBANY, NEW YORK 12243-0001
 CESAR A. PERALES
 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: 87 INF-005
 (Division of Adult Services)

TO: Local Commissioners

DATE: January 23, 1987

SUBJECT: Interagency Agreement between the
 Department of Social Services and Office
 of Mental Health on Discharge Planning

SUGGESTED
 DISTRIBUTION: Director of Services
 Adult Services Staff
 Income Maintenance Staff
 Medical Assistance Staff
 Staff Development Coordinators

CONTACT PERSON: Any questions concerning this release should be directed to your district's Protective Services for Adults program representative in the Division of Adult Services by calling 1-800-3423715, Sharon Lane, ext. 3-8728, Gina Driscoll, ext. 3-1713, Kathleen Crowe, ext. 4-6607 or Irv Abelman, ext. 4-8934 or (212)(488-5097.

Purpose

To inform the local districts about the Interagency Agreement between the Department of Social Services and the Office of Mental Health (OMH) on Discharge Planning for persons about to be discharged or released from state operated psychiatric facilities. A copy of this Agreement is attached to this release as Appendix 1.

FILING REFERENCES

Previous ADMs/INFs	Department Regs.	Soc. Serv. Law & Other Legal Ref.	Bulletin/Chapter Ref.	Misc. Ref.
83 INF-17 82 ADM-58	Part 313	Sections 62.4(f) SSL 131.2 SSL 29.15 Mental Hygiene Law		

Background

Since 1974 both the Mental Hygiene Law (MHL) and the Social Services Law (SSL) have required state-operated psychiatric facilities and social services districts to cooperate in the development and implementation of services plans for persons discharged or released into the community. Specifically, section 29.15 MHL requires directors of state facilities to prepare a written services plan for any person to be discharged or released into the community in cooperation with appropriate local social services officials and directors of local governments units. This section of the law further requires cooperative action between facility directors, social services officials and directors of local governmental units in the implementation and monitoring of these plans. Section 131.2 of the SSL requires local social services officials, to the extent that funds are available, to cooperate with directors of mental hygiene facilities to assist persons discharged from these facilities in their transition to a condition of self-care and self-support in the community. Part 313 of the Department's regulations contains the specific responsibilities of the districts concerning the development, implementation and monitoring of the services plans prepared on behalf of persons discharged or released into the community from state facilities. The discharge planning responsibilities of the districts are further clarified in 82 ADM-58 and 83 INF-17.

Despite the aforementioned statutory and regulatory requirements, the issuance of policy directives and other releases by the Department and OMH, both state agencies are aware of significant problems which exist between state facilities and local districts regarding the discharge planning process. Most of these problems are the result of misunderstandings about the roles and responsibilities of the districts and state facilities with regard to this process.

To address these problems, the Department and OMH have developed an Interagency Agreement on Discharge Planning which clarifies the responsibilities of local district staff and the staff of state operated psychiatric facilities with regard to the development, implementation and monitoring of services plans for persons about to be discharged and released into the community. This agreement was prepared with the advice of an Ad Hoc Committee which consisted of representatives from several local districts and state operated psychiatric facilities. As stated above, a copy of this agreement is attached to this release. Outlined below is a summary of some of the major provisions of this agreement.

Summary Of Major Provisions

Responsibilities of Directors of State Operated Psychiatric Facilities

- o To notify appropriate social services officials of those patients who are about to be placed into the community and are likely to need public assistance, medical assistance, Supplementary Security Income or services as soon as possible after the decision to place has been made.

- o To provide appropriate social services officials with all information which is necessary to determine the eligibility of persons to be released or discharged into the community for public assistance, medical assistance, and/or services, including certain situations in which an individual refuses to consent to the release of this information.
- o To establish a process which assures that discharge planning starts at the time of admission and that patient resource, medical and social work staff of the facility coordinate their efforts to assure that all information necessary for eligibility determinations is provided to appropriate social services officials in a timely manner.
- o To periodically review, during the first 90 days after discharge or release, the implementation and the adequacy of a person's Individual Services Plan in cooperation with the social services official.
- o To provide the social services official with a copy of the Individual Services Plan in all situations in which social services participates in the development of the Plan.

Responsibilities of Social Services Officials

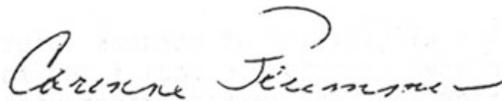
- o To establish a timely and efficient process to determine the eligibility of persons about to be discharged or released into the community for public assistance, medical assistance and/or services.
- o To determine the eligibility of persons about to be discharged or released from State operated psychiatric facilities for public assistance, medical assistance and/or services in accordance with applicable law and regulations
- o To provide facility directors with all necessary forms and assistance to assure that the director may assist persons to make application for public assistance, medical assistance and/or services and where appropriate, Supplemental Security Income.
- o To cooperate with the director of the facility in developing an Individual Services Plan for persons in need of public assistance, medical assistance and/or services.
- o To make regular or periodic visits to those persons for whom the social services official is responsible in the Individual Services Plan, for the purpose of assuring that the needs of the client continue to be met in cooperation with the staff from the facility and other appropriate providers.
- o To make all necessary visits and contacts with state charge clients in accordance with Department regulations.

In addition to these specific responsibilities, the Agreement contains other provisions to facilitate cooperative action between social services officials and directors of state operated facilities. These provisions include:

- o a process for resolving interagency disputes between local districts concerning the responsibility to pay for the cost of public assistance, medical assistance and/or services for a person who has been discharged or released into the community;
- o a process for allowing a social services official to indicate his concerns with the appropriateness of an Individual Services Plan as part of the official records maintained by the facility, the local district, and other providers involved in implementing the plan;
- o a process for resolving conflicts between social services officials and facility directors; and
- o a requirement for social services officials and facility directors to establish interagency agreements to implement the provisions of this Agreement.

ADDITIONAL INFORMATION

Attached to this release as Appendix 2 are Guidelines for Maintaining Confidentiality During the Discharge Planning Process, which have been issued to State operated psychiatric facilities by OMH. These guidelines should help assure that necessary information is shared with social services officials on behalf of persons about to be discharged or released into the community.



Corinne Plummer
Deputy Commissioner
Division of Adult Services

Interagency Agreement between the State Department of Social Services and the State Office of Mental Health regarding Discharge Planning from State Operated Psychiatric Facilities.

WHEREAS section 29.15 of the Mental Hygiene Law requires directors of state operated psychiatric facilities, in conjunction with appropriate social services officials, to develop written individual service plans for persons about to be discharged or released into the community; and

WHEREAS a significant number of the persons discharged or released into the community from such facilities are in need of public assistance, medical assistance, and/or supportive services from social services officials;

and

WHEREAS Section 131.2 of the Social Services Law requires social services officials, to the extent funds are available, to cooperate with directors of state facilities in order to assist persons who are about to be discharged or released in their transition to a condition of self support and self care in the community; and

WHEREAS in order to assure that the public assistance, medical assistance, and/or supportive services needs of persons about to be discharged or released into the community are met, cooperation and coordination must exist between social services officials and directors of state operated psychiatric facilities;

THEREFORE

This agreement relates to the relative duties and responsibilities of the Office of Mental Health, hereafter referred to as Mental Health, and Department of Social Services, hereafter referred to as the Department, with respect to persons who, are patients in a state operated psychiatric facility, are about to be discharged or released from a facility, and who are, or are likely to become in need of public assistance and care, medical assistance and/or supportive services. As used in this agreement, the terms "person", and "persons" who are, or are likely to become in need of public assistance and care, medical assistance and/or supportive services, shall mean and refer to persons in a state operated psychiatric facility who are currently receiving, and currently eligible, or are likely, to become eligible, and who are willing to participate in program of public assistance, care, medical assistance, supportive services, and/or Supplemental Security Income (SSI), in accordance with applicable provisions of the Social Services Law. As used in this agreement the term "facility" shall mean and refer to a psychiatric facility operated by Mental Health. As used in this agreement, the term "Director" shall mean and refer to Directors of facilities operated by Mental Health, As used in this agreement, the term "Social Services Official" shall mean and refer to local social services officials. As used in this agreement, the term "District" shall mean and refer to a city or county social services district.

1. Directors of State Operated Psychiatric Facilities shall be responsible for the following:

a. With respect to a person who is admitted to a facility and who is receiving public assistance, medical assistance and/or services from a social services district, to notify the appropriate social services official to assure that the individual's benefits are not disrupted and are available at the time of discharge or release or conditional release to the extent permitted by applicable law and regulation.

b. With respect to patients in a facility who are about to be placed in the community as a result of a planned discharge or release or conditional release, and who will or are likely to be in need of public assistance, medical assistance, Supplemental Security Income and/or services, to notify the social services official of the district wherein such patient is to be placed as soon as possible after the decision to place the patient is made. Such notice shall include the name of the patient, whether he has been a patient in a facility for a period of five years or more, his residence prior to admission to the facility, whether he was receiving public assistance and care, medical assistance, services, and/or Supplemental Security Income, the community he is to be placed in if such has been determined and the level of care and supervision he will require in order to be placed in the community.

c. With respect to those persons who will or are likely to be in need of public assistance, care, medical assistance, services, and/or Supplemental Security Income, to provide the appropriate social services

official with all necessary information relating to the financial circumstances and physical and mental condition of a person about to be discharged, released or conditionally released which is required by the district in accordance with applicable regulations, to determine the eligibility of the person for public assistance and care, medical assistance and/or social services. Every effort shall be made to obtain the patient's consent for the release of such information. Such efforts to obtain the patient's consent shall be documented in the patient's case record. In accordance with the provisions of Section 33.13(d)(i)(ii) of the Mental Hygiene Law, the lack of consent by the person shall not prohibit the director from making such information available to the social services official when he determines that the provision of public assistance and care, medical assistance and/or services is essential to meet the needs of the individual.

d. To help assure that the public assistance, medical assistance, Supplemental Security Income and/or services, to which a person is eligible, are available at the time of discharge, release or conditional release, the director shall establish a process which assures that discharge planning starts at the time of admission and that patient resource, medical and social work staff involved in discharge planning coordinate their efforts to assure that information necessary for eligibility determinations is provided to the appropriate social services official in a timely manner.

e. For those persons about to be placed in the community who will or may be in need of public assistance and care and/or services, to provide any help necessary to obtain such assistance in completing an application for public assistance and care, services or Supplemental Security Income benefits.

f. With respect to each patient about to be released or discharged, to develop a Written Individual Service Plan in cooperation with the appropriate social services official: In addition, the patient shall be afforded every opportunity to participate in the development of his/her Individual Service Plan, provided however, a patient shall not be required, as a condition precedent to discharge, release or conditional release, to agree to the terms of the Individual Service Plan. The Individual Service Plan shall include those services available to the person pursuant to the unified services plan or local services plan of the community in which he is to be placed, and shall integrate the services authorized to be provided to such person from the social services district. Such plan shall specify the type of-residence in which the person is to be placed and the services available to the person in such residence.

g. If a person is to be, placed in a residence that is subject to licensure, certification or approval by Mental Health, Social Services or any other State agency, the director of the facility shall determine that such residence is currently and validly licensed, approved or certified. If a person is to be placed in a residential accommodation not subject to licensure, certification or approval by any state agency or department, said individual shall not be placed unless the director of the, facility has determined after consultation with appropriate local agencies that such residential accommodation complies with appropriate local zoning, building, fire and safety codes, ordinances and regulations.

h. In cooperation and consultation with the social services official, during the first 90 days after discharge or release, the director of the facility shall periodically review the Individual Service Plan to determine that the services specified in such Plan are being provided and that the plan continues to meet the needs of, and is appropriate for the person.

i. In all instances in which social services participates in the development of an Individual Services Plan on behalf of a person about to be discharged or released into the community, the director shall assure that the social services official receives, a copy of such plan.

2. Social services officials shall be responsible for the following:

a. With respect to a patient who is the subject of a notification from a director of a facility to the effect that the patient is about to be placed in the community and is or is likely to become in need of public assistance and care, Supplemental Security Income and/or social services, to cause an investigation to be made of the patient's circumstances for the purpose of determining such person's eligibility for such assistance and care and services., in accordance with applicable regulations.

b. To provide the director of the facility with all necessary forms and assistance in order to assure that the director may assist the person to make application for public assistance and care, and/or medical assistance, and/or social services, and to provide the director with such assistance as may be necessary to enable the director to assist appropriate individuals in applying for Supplemental Security Income.

c. To establish an efficient and timely process to determine the eligibility of the person for public assistance and care and services in accordance with applicable provisions of the Social Services Law and the Department of Social Services Regulations.

d. To cooperate with the director of the facility in developing an Individual Service Plan for a person who is in need of public- assistance and care, medical assistance, Supplemental Security Income and/or services. Such cooperation shall include informing the director of the availability of the services for which the person is eligible under provisions of the Social Services Law and Department regulations, evaluating those services to determine their appropriateness for the person, helping identify the additional services, that may be necessary for the person to assure his successful transition to a satisfactory level of self-support and self-care in the community, and assuring that social services components of the Individual Services Plan are integrated and coordinated with the services components of the Plan to be provided under the unified services plan or local services plan of the community in which the person is to be placed. The method of the social services official's participation in the development of an Individual Service Plan shall be determined by factors, including but not limited to, the services needs of the individual, the geographic distance between a facility and the district and staffing considerations of the district.

e. In those situations in which a social services official is receiving one hundred per cent of federal and state reimbursement for

the cast of public assistance and care, medical assistance and services on behalf of an individual discharged or released from a facility, such official shall, at a minimum, provide visits and/or other follow up to such individuals as set forth in the Department's regulations.

f. When the social services official has been designated in the Individual Service Plan as being responsible for making regular or periodic visits to the person in accordance with applicable regulations, such official shall make these visits in accordance with the plan and at such additional times as may be appropriate. In those situations where the social services official determines that the needs of the client are not being adequately met, he shall initiate actions to address the situation which may include notifying other appropriate services providers which are, or may need to be involved in the delivery of services to the client,

g. In those situations in which the individual Services Plan designates the social services official as being responsible for making regular and periodic visits to the person and/or securing an appropriate alternative residence for any person who becomes incapable of daily living without supervision, such official, in cooperation with the facility director, within the timeframes set forth in paragraph h of Section One of this agreement, shall periodically review the Individual Services Plan to determine that the services specified in such Plan are being provided, and that the plan continues to meet the needs of, and is appropriate for the person.

3. The Department and Mental Health further agree that:

a. In those situations in which there is an interjurisdictional dispute between districts concerning the responsibility to pay for public assistance and care, medical assistance and/or services on behalf of a person about to be discharged or released from a facility, the social services official in whose district the individual is to be placed shall be responsible for arranging for and providing such public assistance and care, medical assistance and/or services for which the person is determined to be eligible. In accordance with applicable regulations, either social services official involved in the dispute may request a hearing from the Department for the purposes of determining which district is fiscally responsible for the cost of public assistance and care, medical assistance and/or services. The Department shall determine which district is fiscally responsible for the cost of public assistance and care, medical assistance and/or services in accordance with applicable law and regulations of the Department.

b. The director shall provide an opportunity for the social services official to indicate any concerns he has with an Individual Services Plan prepared by the director, in cooperation with the social services official on behalf of a person who is about to be discharged or released into a living arrangement which is not certified by an appropriate agency. Such concerns shall be prepared in writing by the social services official and copies of such written statements maintained in the case record of the facility, social services and other providers involved in implementing the Individual Services Plan. However, even in those situations in which

a social services official has concerns about the appropriateness or effectiveness of a person's Individual Services Plan, such official shall not be relieved from the responsibility to provide those services for which the person is otherwise eligible in accordance with the provisions of the Social Services Law and applicable regulations of the Department.

c. Directors of facilities and appropriate social services officials shall establish a process to resolve conflicts which may arise concerning:

the timely notification of a social services official that a person is about to be discharged or released into the community who is likely to be in need of public assistance and care, medical assistance and/or services;

the notification of a social services official concerning whether a person about to be discharged or released into the community has been in the facility for a period of five or more years.

the involvement of a social services official in the development of an Individual Services Plan on behalf of persons in need of public assistance and care, medical assistance and/or services;

the content of the Individual Services Plan of an individual and the implementation of such plan;

the timeliness of eligibility determinations made by a social services official on behalf of persons who are being discharged or released into the community;

the sharing of client specific information between the facility and the social services official; and

any other matter relating to the discharge planning process between a social services official and the facility.

To the furthest extent possible, conflicts shall be resolved at the local level between the facility and the social services official within reasonable timeframes to be established by the facility and the social services official. If conflicts cannot be resolved within the reasonable timeframes established, the Department and Mental Health shall be available for review and/or recommendation through designated offices and/or units.

d. Directors of facilities and social services officials shall take those actions which are necessary to implement this Agreement, which shall include the establishment of interagency agreements. Nothing in this agreement shall be construed to prevent social services officials and directors of facilities from mutually agreeing to accept additional responsibilities with regard to the discharge or release of persons from state operated facilities into the community.

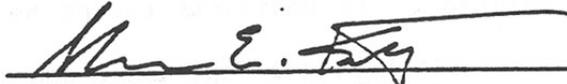
This agreement may be extended to incorporate additional agreements at any time through communication initiated by either agency. At times, the parties may find it necessary to develop and/or change policy and regulations which may affect this Agreement. The parties agree to confer with each other in advance concerning issues which may affect their mutual responsibilities.

The parties to this agreement further agree that either party, upon 30 days written notice and written approval of the other party, may amend this document. Either party may terminate this agreement by giving 30 days written notice to the other party.

Date: November 20, 1986


Cesar Perales, Commissioner
NYS Department of Social Services

Date: July 23, 1986


Steven E. Katz, M.D., Commissioner
NYS Office of Mental Health

Guidelines for Maintaining Confidentiality

During the Discharge Planning Process

The key principle inherent in the, discharge planning statute is that there is a need for continuity of treatment and support services beyond the period of acute psychiatric hospitalization. Implicit in this principle is the patient's need to have a stable living arrangement, financial and medical assistance, vocational and educational programs, as well as continued treatment as required. The Mental Hygiene Law clearly allows and encourages the principle of continuity of care and sharing information for after-care services as being in the best interest of the patient.

Section 29.15 (m) It shall be the responsibility of the chief administrator of any, facility providing inpatient services subject to licensure by the office of Mental Health to notify, when appropriate, the local social services commissioner and appropriate state and local mental health representatives when an inpatient is about to be discharged or conditionally released and to provide to such officials the written service plan developed for such inpatient as required under subdivision (f) of this section.

Section 33.13 (d) Nothing in this section shall prevent the exchange of information concerning patients or clients, including identification, between (i) facilities or others providing services for such patients or clients pursuant to an approved local or unified services plan, as defined in article forty-one, or pursuant to agreement with the department and (ii) the department or any of its facilities. Information so exchanged shall be kept confidential and any limitations on the release of such information imposed on the party giving the information shall apply to the party receiving the information.

The OMH/DSS Interagency Discharge Planning Agreement is clear in its statement regarding the pursuit of patient consent during the discharge planning process. It is the intention of both the OMH and the DSS to encourage the use of every appropriate method to obtain the patient's consent for the sharing of pertinent information. Pertinent information is defined as only that information which is necessary to provide the needed service in a safe and appropriate manner. However, the lack of consent by the patient shall not prohibit the facility director from making pertinent information available to the social services official when s/he determines that the provision of public assistance and care, medical assistance and/or services is essential to meet the needs of the patient.

It is recommended that a clinical supervisor be consulted in situations where there is a question or concern regarding the sharing of information for purposes of continuity of care in the transition from inpatient hospitalization to the community. Any additional inquiries should be forwarded through existing mechanisms for a consultation or response.