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| Office of Administrative Hearings (OAH) | Number: 95-27 |
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| Procedures Transmittal | Date: July 19, 1995 |
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| Distribution: |             |
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| ALB OAH Staff [x] UPS ALJs/ [x] Upstate LDSS [x] | Subject: |
|                                     |             |
| SUP ALJs [x] | Medicaid Co-payment |
|                                     | Hearings Pursuant |
| NYC OAH Staff [x] NYC ALJs/ [ ] NYC Agencies [x] | to 1993 Notice |
|                                     | SUP ALJs [ ] (NMAP, HRA only) |
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This is to advise you that approximately 250 fair hearing requests pending since 1993 on the issue of Medicaid co-payment have been scheduled. These requests, which involve both Upstate and New York City cases, were initiated by an October 1, 1993 notice (attached) sent to Medicaid recipients informing them of certain situations where a co-payment could be requested. These fair hearing requests are coded as follows:

Issue Code: 957 (Medicaid Co-payment)  
Subcategory: SP-29

Local districts will be responsible for representation and providing whatever supporting documents, including the case record, in support of their determination. Please refer to Local Commissioner's Memorandum 93 LCM-119 and 93 LCM-146 for more specific information on the implementation and handling of co-payments for Medicaid recipients.

In New York City, there will be two calendars for 1993 Medicaid co-payment hearings scheduled at 330 W. 34th Street and one half-day calendar scheduled at 80 Centre Street. Upstate 1993 Medicaid co-payment hearings will be integrated into the regular calendars.

In addition, on September 1, 1995, most MA recipients age 21 or older may be asked to contribute to the costs of some drugs and medical supplies provided by pharmacies. Notices will be mailed in August to all Public Assistance and MA only cases, except nursing home residents. Fair hearing requests generated by these notices will be coded differently and scheduled separately than those

Dear Medicaid Recipient:

It is important that you read this letter to understand the following changes to Medicaid and that you keep this letter for future use.

Beginning November 1, 1993 most Medicaid recipients age 21 or older will be asked to pay for part of the cost of their medical care each time they see a Medicaid provider. This payment is called a co-payment or co-pay. From November 1, 1993 until March 31, 1994, there is a \$41 maximum per recipient for all co-payments incurred. Then, for each 12 months beginning April 1, 1994, there will be a \$100 maximum per recipient for all co-payments incurred. Co-payments were to begin June 1, 1992, based on a change to Section 367-a(6) of Social Services law, but were delayed because of a court order. However, the court has told us we can now ask for co-payments. The provider who sees you (such as a clinic or pharmacy) will ask for the co-payment.

IF YOU ARE UNABLE TO PAY THE REQUESTED CO-PAYMENT, TELL YOUR HEALTH CARE PROVIDER WHEN THE PROVIDER ASKS YOU FOR PAYMENT. YOU CAN STILL GET THE SERVICES YOU NEED FROM YOUR PROVIDER. THE PROVIDER CANNOT REFUSE TO GIVE YOU SERVICES OR GOODS BECAUSE YOU TELL THE PROVIDER THAT YOU ARE UNABLE TO PAY THE CO-PAYMENT.

There is a toll free telephone number that you can use to report providers who refuse to give you care because you are unable to pay the co-payment. The number is 1-800-541-2831 and can be called between 8:30 a.m. and 5:00 p.m. Monday through Friday.

There are a number of exemptions from co-payments. Please read this entire letter to see if you do not have to pay co-payments or if the services you need do not have co-payments.

Your health care provider will be allowed to ask for co-payment only for:

3. **CLINIC VISITS** - The co-payment for each visit to a clinic is \$3.00. Visits to clinics for mental health services, developmental disabilities/mental retardation services, alcohol and drug abuse services, Tuberculosis Directly Observed Therapy, family planning and Methadone Maintenance Treatment Programs (MMTP) do not have a co-payment.
4. **PRESCRIPTION DRUGS** - The co-payment for each new prescription and each refill for a brand-name drug is \$2.00. The co-payment for each new prescription and each refill for a generic drug is \$.50. There is no co-payment for certain drugs to treat mental illness or tuberculosis. Your pharmacist can tell you if there is a co-payment for the drug you need.
5. **NONPRESCRIPTION DRUGS** - The co-payment for each new order and each refill for a nonprescription (over-the-counter) drug is \$.50.
6. **SICKROOM SUPPLIES** - The co-payment for each new order and each refill for a sickroom supply is \$1.00. Sickroom supplies include ostomy bags, heating pads, bandages, gloves, vaporizers, syringes, etc.
7. **LABORATORY SERVICES** - The co-payment for each laboratory procedure billed by a laboratory to Medicaid is \$.50.
8. **X-RAYS** - The co-payment for each x-ray you get is \$1.00. If the x-ray is taken by your doctor in his/her office, there is no co-payment.

NOTE: There is no co-payment for services by private practicing physicians or dentists. There is also no co-payment for Home Health Services and Personal Care Services.

YOU DO NOT HAVE TO PAY THE CO-PAYMENT:

1. If you are unable to pay and you tell your provider that you are unable to pay.
2. If you are younger than 21 years of age.
3. If you are pregnant. If you are pregnant, have your doctor write a note that says you are pregnant. You can show this note to your other providers if they ask you for a co-payment. This exemption continues for two months after the month in which your pregnancy ends.
4. If you are enrolled in a managed care program or a health maintenance

7. If you are a resident of a Nursing Facility or an Intermediate Care Facility for the Developmentally Disabled (ICF/DD).
8. If you are a resident of a community based residential facility that is licensed by the Office of Mental Health or the Office of Mental Retardation and Developmental Disabilities. A staff member from your residence will give you a letter to show providers so you do not have to pay co-payments.
9. If you are enrolled in a Comprehensive Medicaid Case Management Program (CMCM) or a Home and Community Based Services (HCBS) Waiver Program. These programs are associated with the Office of Mental Health (OMH) or the Office of Mental Retardation and Developmental Disabilities (OMRDD). You have a case manager if you are in either of the programs. The case manager can help you if you have any questions.

From November 1, 1993 until March 31, 1994, there is a \$41 maximum per recipient for all co-payments incurred. Then, for each 12 months beginning April 1, 1994, there will be a \$100 maximum per recipient for all co-payments incurred. The New York State Department of Social Services will record all your co-payments and inform providers when you have met the maximum co-payment for that year. The Department will also send you a letter when the maximum co-payment is reached.

Save your co-payment receipts if you are eligible for Medicaid by spending part of your income toward medical care. The co-payments you pay will count towards your spenddown (overage) in the following month.

**REMINDER - PROVIDERS CANNOT REFUSE TO GIVE YOU SERVICES OR GOODS IF YOU CANNOT PAY THE CO-PAYMENT AND TELL THIS TO THE PROVIDER.**

**FAIR HEARINGS:** See the attachment for your fair hearing rights. You do not have a right to a hearing if you are only complaining about the change in the law and do not like the co-payment program. You have a right to a fair hearing if you think we made a mistake about the date of your birth and you

