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**GENERAL INFORMATION SYSTEM**

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**DIVISION:** Health & Long Term Care

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**GIS 96 MA/021**

**TO:** Personal Care Program Directors

**FROM:** Richard T. Cody, Deputy Commissioner, Division of Health and Long Term Care

**SUBJECT:** Initial Authorizations for Personal Care Services (DeLuca et al. v. Hammons and Wing)

**EFFECTIVE DATE:** June 13, 1996

**CONTACT PERSON:** Bureau of Long Term Care Personal Care Services Monitoring Staff

This is to advise you of a federal court order effective on Thursday, June 13, 1996, that invalidated a Department regulation governing initial authorizations for personal care services. DeLuca et al. v. Hammons and Wing (S.D.N.Y., June 7, 1996)

The Department regulation is 18 NYCRR 99505.14(a)(6)(ii)(b). This regulation provided that initial authorizations for Level II services were not to exceed four hours per day or 28 hours per week unless the applicant needed total assistance with toileting, transferring, walking or feeding.

Effective immediately, social services districts must not apply this regulation when initially authorizing personal care services. This means that an applicant who needs some assistance with personal care services tasks may be authorized for more than four hours per day or 28 hours per week when such hours are assessed as necessary. This also means that an applicant who needs total assistance with a task other than transferring, toileting, walking or feeding may be authorized for more than four hours per day or 28 hours per week when such hours are assessed as necessary.

Social services districts are reminded that they must authorize only the hours of personal care services that the applicant actually needs. This is required by Department regulation 18 NYCRR 99505.14(b)(5)(i). Districts are also reminded that personal care services applicants who are not self-directing and who require continuous supervision and direction for making choices about activities of daily living, are not eligible to receive personal care services unless supervision or direction is provided on an interim or part-time basis by a self-directing individual, other than the personal care aide, or by an outside agency or other formal organization, other than the personal care provider agency. [18 NYCRR 99505.14(a)(4)(ii)(a) - (c)]

Districts having questions regarding this message should contact the Bureau of Long Term Care's Personal Care Services Program field monitors: Marcia Anderson, George Fleury or Margaret O. Willard at 1-800-343-8859, extension 3-5602, 3-8269 or 3-5569 or (518) 473-5602, 473-8629 or 473-5569, or on-line at 0LT130, AW5610 or AW8310, respectively.