



Susana Martinez, Governor
Brent Earnest, Secretary
Nancy Smith-Leslie, Director

INTRADEPARTMENTAL MEMORANDUM
MAD-GI: 18-01
DATE: 2/26/2018

TO: INSTITUTIONAL CARE/WAIVER UNIT, INCOME SUPPORT DIVISION

FROM: *NLS* NANCY SMITH-LESLIE, DIRECTOR, MEDICAL ASSISTANCE DIVISION
MB MARY BROGDON, DIRECTOR, INCOME SUPPORT DIVISION

BY: JOEY KELLENAERS, ELIGIBILITY BUREAU, MEDICAL ASSISTANCE DIVISION

SUBJECT: GUIDANCE ON AYUDANDO GUARDIANS AND DESERT STATE LIFE MANAGEMENT CASES

The purpose of this GI is to inform staff of the following procedures regarding cases in which Ayudando Guardians or Desert States Life Management (DSLML) was a guardian or trustee for individuals in receipt of New Mexico Medicaid.

Ayudando Alpha, Inc., doing business as "Ayudando Guardians, Inc." has been closed and is being operated by the United States Marshals Service at this time. The US Marshals Service continues to manage the company's business operations and to ensure continuity of services for its clients.

For clients served by DSLM, the New Mexico Regulation and Licensing Department (RLD) is encouraging anyone who has been affected by the actions of DSLM to contact them at (505) 476-4971 or through email at DSLML.TrustExams@state.nm.us.

The Medical Assistance Division (MAD) has reached out to Michael Fittipaldi with the US Department of Justice and has been in frequent contact with him regarding Medicaid clients who have Income Diversion Trust (IDTs), Special Needs Trusts, or Pooled Charitable Trusts that were affected by Ayudando or DSLM. We have received a list of the clients that have IDTs, as well as a list of clients with newly appointed guardians and their addresses. MAD will send these lists directly to Tamara Sanchez, Manager of the IC/Waiver Unit, to share with her staff. This will allow her staff to update cases in ASPEN with new representative and contact information as they come across them. Going forward and for all inquiries related to these cases, MAD will function as the point of contact for any correspondence with Mr. Fittipaldi.

In response to the issues raised by this current situation, MAD is implementing the following directives. Those recipients for whom Ayudando Guardians or DSLM acted as guardians,

conservators, representatives, trustees or representative payees for social security benefits, should be granted flexibility regarding recertification requirements, including both applications and verifications. If ISD becomes aware that a recertification packet was sent to either of these organizations, then the Department should re-send a recertification application to the new representative or guardian. Furthermore, if the Medicaid recipient had bank accounts at financial institutions used by Ayudando or DSLM, ISD should not request current statements nor proof of closure of these accounts and should allow for the possibility that a new representative payee may not yet have had an opportunity to receive statements for accounts opened on behalf of their new clients.

The US Department of Justice has frozen spending from certain applicant/recipient accounts. Some individuals may continue getting Supplemental Security Income (SSI), Social Security, or other regular deposits of income into the affected accounts. The deposits into these frozen accounts can cause the individual to go over the resource limit, which would typically result in a case closure. Since this is out of the individual's control, HSD will not allow these individual cases to be closed due to having excess resources. In these cases, such resources may not be counted until the individual, their guardian, or authorized representative has assumed control of the affected accounts. Individuals with frozen accounts who are on the Institutional Care Medicaid program will need to have their Patient Pay Amount (PPA) amount adjusted accordingly.

In addition, MAD is directing the IC/Waiver Unit to add the following language to case comments for clients for whom Ayudando Guardians or DSLM was the guardian or trustee:

For Ayudando Cases:

“As of July 11, 2017, Indictment in United States v. Ayudando Guardians, Inc., et al., 17-CR-1836 resulted in zero balances for IDTs, Special Needs Trusts, and Pooled Charitable Trusts. ISD will not count toward the balance of amount due to the state any amount that was allegedly taken as a result of this misconduct. ISD will not take into consideration any resources that may be frozen as a result of this investigation and, if applicable, will adjust the individual's PPA.”

For DSLM Cases:

“As of July 2017, an audit done by the New Mexico Regulation and Licensing Department of the financial dealings with Desert States Life Management has resulted in a zero balance for IDTs, Special Needs Trusts, and Pooled Charitable Trusts. ISD will not count toward the balance of amount due to the state any amount that was allegedly taken as a result of this misconduct. ISD will not take into consideration any resources that may be frozen as a result of this investigation and, if applicable, will adjust the individual's PPA.”

The Department shall do its best to assist these recipients during this time of transition and will avoid taking any negative actions that would cause closure or a reduction in benefits with the State of New Mexico during their current recertification. Individuals may not have their eligibility closed or denied as a result of the actions taken by Ayudando or DSLM, or as the result of any subsequent complications.

At recertification, Medicaid cases should be reviewed to determine if the client has or had a relationship with either Ayudando or DSLM. If it is determined that a relationship existed with either of these organizations, the case may not be closed due to any financial reason, or for failure to timely submit verifications, unless it has been confirmed that the recertification packet was sent to a responsible party and that no documents were received within the allotted timeframe. As noted above, steps should be taken to ensure that the recertification packet is sent to someone who can complete it on behalf of the client. In addition, if no resource information is received from these clients, the case may be recertified for one year if the recertification packet or a new application is received from the new guardian and the guardian has not assumed control of the individual's accounts.

An ISD 122 renewal form or a new application is needed to recertify the case. If it is confirmed that the recertification packet was sent to the responsible guardian and that any requested mandatory verifications were not submitted timely, then the case may be closed for failure to recertify.

Please notify the MAD Eligibility Bureau contacts below about any cases requiring special handling as outlined in this GI. If a client has not been assigned a new agency, please contact MAD so staff can research and provide ISD with new contact information.

If you have any questions regarding this GI, please contact the MAD Eligibility Bureau. You may contact, Karmela Vigil at (505) 827-6247 or karmela.vigil@state.nm.us, Sonya Pierce at (505) 827-7777 or sonya.pierce@state.nm.us or Joey Kellenaers at (505) 827-6208 or joey.kellenaers@state.nm.us.