

# Client Alert

## March 27, 2025

### **New Single Fiscal Intermediary Lawsuit Filed in Nassau Supreme Court**

A class action complaint has been filed against the New York State Department of Health (the Department) in Nassau County Supreme Court. The Plaintiffs and class members in this case are Consumers (or their legal guardians or Designated Representatives) who receive home care services through the Consumer Directed Personal Assistance Program (CDPAP).

The suit alleges four causes of actions:

1. The Department failed to fulfill their statutory obligations as set forth in the CDPAP Amendment by failing to develop a transition plan and, in doing so, deprived Plaintiffs of their statutory right to receive benefits under CDPAP.
2. The statute limiting fiscal intermediary (FI) services to a Single Statewide Fiscal Intermediary (SFI) anticipated that the SFI would be fully functional as of March 31, 2025, which condition precedent has not been fulfilled, as evidenced by the Department authorizing a "late registration window" that extends the time for Consumers and Personal Assistants who have not yet registered or completed registration with PPL to continue trying to navigate and complete the transition process.
3. The Department violated their duties under Article I, Section 6 of the New York State Constitution by depriving Plaintiffs of their due process right to continued access to the CDPAP as Medicaid eligible participants.
4. The Department violated their duties under Article XVII, Sections 1 and 3 of the New York State Constitution by denying Plaintiffs access to CDPAP.

The complaint raises issues related to the "late registration window" including that PAs could be required to go without pay for more than a month in violation of New York State Labor Laws which require prompt payment of wages, and other provisions that require Workers' Compensation and disability coverage, and unemployment insurance.

The Plaintiffs are seeking an order declaring that the current FIs in operation as of March 31, 2025, be permitted to continue providing FI services until such time the SFI is fully functioning and enjoining the statutory requirement that all current FIs cease operating and providing FI services as of April 1, 2025.

We will continue to monitor the lawsuit and keep you updated with any progress.

### **CDPAP Litigation Update**

Freedom Care LLC's motion for preliminary injunction has been denied in its entirety and its petition challenging what it alleged was a "sham bidding process" that resulted in a contract award to Public Partnerships LLC (PPL) to serve as the Statewide Single Fiscal Intermediary (SFI) has been dismissed by the Hon. Verna L. Saunders, JSC of the New

The court found that Freedom Care's claims of a "sham process" were unsubstantiated. The court determined that statements made prior to the Request for Proposals (RFP) in June 2024 suggesting PPL would prevail as the SFI were insufficient to impute wrongdoing on the Department of Health (DOH) and claims confirming a pre-selection of PPL lacked probative value. The court declined to find whether PPL was a responsible bidder, affording due deference to the DOH's determination that no issues affected PPL's ability to fulfil its contractual requirements.

In its determination, the court stated that Freedom Care failed to show that DOH lacked a rational basis for selecting PPL for the award. The court also afforded DOH due deference in its interpretation of the relevant statutes and regulations and found that Freedom Care failed to establish a basis for disturbing the award to PPL.

### **Personal Care Aide Training Program / Alternative Competency Demonstration Audits**

The Department of Health has begun auditing Personal Care Aide Training Programs (PCATP) focusing on Alternative Competency Demonstration (ACD) and Licensed Home Care Agency personnel files for those hired with ACD certificates.

We strongly suggest that Agencies with PCATPS conduct an internal audit to make sure that personnel files contain the documents and information required by regulation. Further, PCATPs should ensure that files include documents necessary to reflect that the ACD process was conducted properly and that all components (Interview, Testing and Competency) were satisfactorily completed.

If you are currently conducting ACDs, visit the Health Commerce System (HCS) to review the full requirements in the ACD guidance. Ensure that each candidate has appropriate proof that they are eligible for the ACD.

If you have any questions about whether you are meeting the ACD requirements, conducting the ACD in accordance with regulations, or need assistance with what the records the Department can request, reach out to our office.

### **FinCEN Narrows Beneficial Ownership Information Reporting Requirements and Extends Deadline**

The Financial Crimes Enforcement Network (FinCEN) has issued an interim final rule (IFR) under the Corporate Transparency Act, effective March 26, 2025, that removes the requirement for U.S. companies and U.S. persons to report beneficial ownership information (BOI) reports to FinCEN under the Corporate Transparency Act. To make clear, through this IFR, all entities created in the United States — including those previously known as "domestic reporting companies" — and their beneficial owners will be exempt from the requirement to report BOI to FinCEN.

In the IFR, FinCEN revised the definition of "reporting company" to mean only those entities that are formed under the law of a foreign country and that have registered to do business in any U.S. State or Tribal jurisdiction. Therefore, only foreign entities that meet the new definition of a "reporting company" and do not qualify for an exemption from the reporting requirements must report their BOI to FinCEN under new deadlines, detailed below. These foreign entities, however, will not be required to report any U.S. persons as beneficial owners, and U.S. persons will not be required to report BOI with respect to any such entity for which they are a beneficial owner.

Foreign reporting companies registered to do business before March 26, 2025, must file no later than 30 days after that date (April 25, 2025). Reporting companies registered on or after March 26, 2025, will have 30 calendar days to file an initial BOI report after receiving notice that their registration has become effective. FinCEN is seeking public comments on the IFR through May 27, 2025. As such, further changes are possible.

Contact our office with any questions.

## DISCLAIMER

The information contained herein is provided by Glaser & Weiner, P.C. for informational purposes only. These materials should not be considered as, or as a substitute for, legal advice and they are not intended to nor do they create an attorney-client relationship. Because the materials included here are general, they may not apply to your individual legal or factual circumstances.

The information contained herein may be modified or rendered incorrect by future legislative or judicial developments. You should not take (or refrain from taking) any action based on the information you obtain from these materials without first obtaining professional counsel. It is possible that under the laws, rules or regulations of certain jurisdictions, this may be construed as an advertisement or solicitation. © 2024 Glaser & Weiner, P.C. All Rights Reserved.



REPRESENTING HOME HEALTH CARE AGENCIES  
IN NEW YORK STATE

68 South Service Road ♦ Suite 100 ♦  
Melville, NY 11747

P: 516.304.5858 ♦ F: 516.304.5855  
[www.glaserweiner.com](http://www.glaserweiner.com)

## ATTORNEY ADVERTISING

Glaser & Weiner, P.C. | 68 South Service Road Suite 100 | Melville, NY 11747 US

[Unsubscribe](#) | [Update Profile](#) | [Constant Contact Data Notice](#)



Try email marketing for free today!