

Client Alert

February 18, 2022

BILL INTRODUCED TO REPEAL AND REPLACE THE CDPAP RFO

On February 17, 2022, New York Senator John Mannion introduced a [Bill](#) to repeal and replace the CDPAP RFO. The Senator is proposing to repeal and replace the RFO with a registration process for all fiscal intermediaries that are operating as of April 1, 2022. If passed, fiscal intermediaries that did not receive a RFO award would be permitted to continue operating and would be required to comply with new requirements which would include:

All fiscal intermediaries would have to register with the Department of Health (“DOH”). A registration would be effective for 5 years. The fee for initial registration would be based on the estimated number of consumers within the applicant's service area and would not exceed \$5,000, and the renewal fee would not exceed \$2,000. Registration would not be denied for existing fiscal intermediaries in good standing with DOH.

Existing Fiscal Intermediaries would have to demonstrate that they are capable of appropriately providing fiscal intermediary services to consumers and have been in compliance with all laws and regulations including wage and labor.

Similar to the factors used in the RFO process, fiscal intermediaries would have to establish several factors which include:

1. Maintenance of an effective organizational structure with qualified administrative staff to deliver all services and ensure fiscal intermediary personnel have the appropriate training and knowledge to fulfill their duties;
2. Written policies and procedures, including policies for administrative staff;
3. Appropriate cultural and linguistic competencies available to serve consumers and personal assistants;
4. A local presence, commensurate with selected service areas to ensure

effective and timely delivery of the services:

5. A disaster preparedness and emergency plan and procedure related to the provision of required services.

Oversight measures including:

1. Fiscal procedures adopted by the fiscal intermediary that comply with generally accepted accounting principles and Medicaid rules and regulations.
2. Corporate compliance policies and procedures in accordance with the federal deficit reduction act and the false claims act to prevent, detect and report fraud, waste and abuse by board members, employees and consumers, and strategies to prevent and detect such fraud;

Registered fiscal intermediaries would also be required to submit a cost report and a report listing quality measures and other data, including the number of timely processed payroll cycles, the number of accurate paychecks, the number of days to onboard a personal assistant, the total number of referrals made each month by a MCO or a LDSS, information related to social determinants of health, cultural or racial disparities or related information, and information about complaints filed with the fiscal intermediary or against the fiscal intermediary.

The fiscal intermediary would also be required to comply with various data privacy and security laws and report annually the direct care and administrative costs of personal assistant services.

Until this legislation is signed into law by the Governor, the RFO remains in place. If you have questions about the implications of this proposed legislation and/or the current status of the RFO process, please reach out to us.

DOH POSTS NEW PROCEDURES FOR ADMINISTRATIVE LICENSURE CHANGES

The Department of Health (DOH), Division of Home and Community Based Services has [posted](#) revised procedures for processing administrative licensure changes requested by Licensed Home Care Services Agencies (LHCSAs). The new procedure, effective February 15, 2022, covers the following licensure changes:

- Deleting or Adding a Service
- Deleting or Adding a County
- Adding an Additional Site
- Closing a Site/License Surrender
- Change of Address of Agency and/or Operator
- Change of Legal Entity (Corporate) Name, Change of Assumed Name (d/b/a) or New Assumed Name (d/b/a)
- License Reprint

The Department included a Licensure Amendment Request Checklist which must be submitted to receive consideration. For example, if requesting additional

services to be added, the agency must submit policies and procedures for the new services, job description(s) and an annual evaluation tool. An agency must submit a written request by email to the appropriate regional office and to LHCSA@health.ny.gov with all required documents as attachments.

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