



Fiscal Intermediary Procurement Process Update

As you are aware, we are waiting for the Department of Health ([DOH](#)) to post the Fiscal Intermediary (FI) contracting criteria. FIs that want to be considered for a contract must submit an “offer for a contract” within 60 days after DOH publishes the offer on its website. FIs currently providing services will be permitted to continue to provide services unless: (A) the FI does not submit an offer for a contract within the 60 days; or (B) the FI’s offer for a contract is denied by DOH. We would expect that because the contracts will not be in place by January 1, 2020 (as required by law) DOH will announce a delay in the requirement that FIs have contracts.

Below we’ve listed contracting criteria found in the legislation as well as criteria and best practices identified by the FI Workgroup that was created to assist with the development of the procurement process. If you are currently providing services as a FI, and you intend to submit an “offer to contract”, we suggest that you begin to analyze your operations so, if necessary, you can begin to take steps to address these items so you are prepared to react once the contracting criteria are posted on the DOH website. **Note that the actual contracting criteria posted by DOH may vary from what is listed below.**

- Length of experience serving the applicable population you intend to serve.
- Demonstrated cultural and language competencies specific to the population of consumers and those of the available work force;
- Demonstrated compliance with all federal and state laws and regulations including wage and labor laws.
- FIs should be able to produce applicable policies and procedures that demonstrate a robust compliance and oversight structure that can meet the 8 elements of an OMIG Compliance Plan. Now is the time to review your compliance program as well as the policies and procedures. We would expect that DOH will analyze these documents to determine whether the FI has appropriate policies and procedures in effect.
- If you operate a LHCSA and FI, are you able to demonstrate appropriate firewalls between these lines of business?
- A geographic distribution that ensures access in rural and underserved areas;
- Does your program make peer support available to consumers? FIs could benefit by having standardized practices for training and mentoring peers to assist consumers in navigating their employer responsibilities.
- Does your program provide consumers with a manual that includes information about:
 - the roles and responsibilities of the consumer, the PA, the FI and the MLTC Plan;
 - how to interview and supervise the PA;
 - how to communicate the expectations of the PA position;
 - how to evaluate PA performance; and
 - how to deal with difficult PAs.

- Does your program have a Performance Improvement Committee? What is the make-up of the PIC (FI management/staff, consumers, designated representatives, PAs, and/or consumer advocates)? How is data from the PIC meetings used?
- While PAs should not be trained by the FIs, does your program provide consumers with resources they can use to train the PA?
- Does your program include an initial onsite visit to consumers? Are there periodic home visits?
- Are the roles and responsibilities of all CDPAP parties clearly defined?
- Is there a process by which the FI is monitoring the consumer's ability to fulfill his/her responsibilities under the CDPA program?
- FIs should consider that they may be judged on various quality measures related to FI services such as:
 - Timely payroll
 - Accuracy of PA paychecks
 - Onboarding time frames for Consumer and PAs
 - Tracking and reporting of consumer and PA complaints
 - Use of satisfaction surveys
 - Compliance with labor and wage laws
 - Measuring avoidable hospitalizations and other VBP metrics

The items listed above are, in some instances, in addition to the requirements of Section 365-f of the Social Security Law and 18 NYCRR 505.28 that are applicable to FIs including:

- Processing wages and benefits, including income tax and other wage withholdings; workers compensation, disability and unemployment insurance compliance;
- Ensuring the health status of each PA prior to service delivery;
- Maintaining personnel records and records of service authorizations/re-authorizations;
- Monitoring the consumer's continued ability to fulfill responsibilities under the CDPAP program;
- Entering into a DOH approved memorandum of understanding with the consumer that describes the parties' responsibilities under CDPAP.

Please [contact](#) our office with any additional questions regarding the procurement process.

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