

**Office of Health Insurance Programs
Division of Long Term Care**

Managed Care Policy 19.01: Implementation of Fiscal Intermediary (FI) Rate Structure Enacted in the SFY 2019-20 NYS Budget

Date of Issuance: July 1, 2019

This Policy guidance is being issued by the Department of Health (DOH) to implement changes in reimbursement enacted in the SFY 2019-20 Budget for Fiscal Intermediaries (FIs) providing services as set forth in State law under the Consumer Directed Personal Assistance Program (CDPAP). The Policy guidance:

- 1) Effective September 1, 2019, implements the Per Member Per Month (PMPM) rate structure enacted as part of the SFY 2019-20 Budget for Fiscal Intermediary administrative services provided under the Consumer Directed Personal Assistance Program; and
- 2) Consistent with State law, effective immediately, establishes transition processes and procedures to ensure an orderly transition of consumers to a different Fiscal Intermediary in the event an FI chooses to cease operations or leave its service area.

CDPAP Fiscal Intermediary Reimbursement Effective September 1, 2019

Effective September 1, 2019, the DOH will implement a three-tier Per Member Per Month (PMPM) rate structure for Fiscal Intermediary (FI) services as defined in state law for FI services provided to Medicaid fee-for-service (FFS) members enrolled in CDPAP. FIs will bill a separate rate code for each consumer for each month the FI is providing service to that consumer based on the number of direct care hours authorized by the Medicaid Managed Care Plan or the Local Departments of Social Services (LDSS). PMPM reimbursement shall be as follows:

Number of Direct Care Hours Authorized Per Month Per Consumer	FI PMPM Reimbursement
700+	\$522
480-699	
320-479	\$164
240-319	
160-239	
80-159	\$64
1-79	

Separate FFS FI rate codes will be established by DOH to reimburse FI tiered administrative PMPMs separate from the direct care hourly rates for personal assistants. DOH will also revise the current hourly CDPAP rates to exclude the administrative component for FI services. Nothing in this Policy guidance impacts wages or wage related requirements for personal care assistants, including State law requirements related to minimum wage.

Medicaid managed care plans may reimburse FIs using the tiered administrative PMPM rate structure set forth above. Alternatively, MCOs may negotiate administrative PMPM rates with FIs pursuant to provider contracts. In either case, MCOs must continue to make timely reimbursement to FIs for the direct wage costs of personal assistants including ensuring that contractual reimbursement meet NYS minimum wage requirements. MCO capitation rates paid by the DOH will be adjusted, subject to actuarial soundness certification by the independent actuary, to reflect the change in Medicaid FFS reimbursement policy.

Transition Provisions

Consistent with Part G of Chapter 57 of the Laws of 2019, the section below provides guidance related to ensuring a smooth transition of consumers to a different FI in the event that an FI no longer provides services or leaves a service area. Statute places specific responsibility for transition of consumers to a different FI with Medicaid Managed Care Plans for CDPAP consumers enrolled in a Medicaid managed care plan; Local Departments of Social Services for CDPAP consumers in Medicaid FFS; and FIs.

Written Notice and Other Transition Requirements for FIs

Fiscal Intermediaries that choose to cease operations or leave a service area must deliver written notice at least forty-five (45) calendar days in advance of such change in operations to the affected CDPAP consumers (or the consumers' representatives), and their personal assistants, the LDSS and Managed Care Plans the FI contacts with, and DOH.

DOH will provide a template that must be used by FIs to provide this written notification. The template will include information regarding the date the FI plans to cease operations or change its service area, and the following information.

- 1) Notice to the CDPAP consumer (or the consumer's representative) must indicate that the consumer has a right to select a different FI of their choosing, and that their Managed Care Plan or LDSS (as appropriate) will be contacting them to provide options for choosing a different FI and will supervise and assist them with transitioning to a different FI. In addition, the notice must indicate the FI has also notified their Managed Care Plan or LDSS, their personal assistants, and DOH.
- 2) Notice to the CDPAP consumer's personal assistants must indicate the FI has notified their CDPAP consumer of the change in their FI operations and the need for

them to select a different FI. The notice must indicate the FI has also notified DOH, and the CDPAP consumer's Managed Care Plan or LDSS, and that the Managed Care Plan or LDSS will supervise and assist with the transition process.

- 3) Notice to any LDSS or Managed Care Plan with which the FI contracts must indicate the FI has notified their CDPAP consumer, the CDPAP consumer's assistants, and the DOH of their change in FI operations. The notice must identify each CDPAP member that has received the notification.
- 4) Copies of the notifications must be sent to DOH via email to ConsumerDirected@health.ny.gov.

FIs that cease operations, leave a service area, or have a CDPAP consumer that independently chooses to change FIs, **may not** take any action to:

- Prevent a personal assistant from transitioning to a different FI of the CDPAP consumer's choice; and
- Require the CDPAP consumer or their personal assistant(s) to switch to a personal care or home health care program that is not within the CDPAP program.

Within five (5) business days of receiving a records request, with written consent from the CDPAP consumer, FIs must transfer all records relating to the CDPAP consumer's care authorizations to the different FI. Within five (5) business days of receiving a records request, with written consent from the CDPAP personal assistant, an FI must transfer records related to the personal assistant's health status, including immunization records to the different FI. Upon transmittal to the different FI, the current FI must acknowledge it assumes all liability for omissions or errors in such records.

Written Notice and Other Transition Requirements for Managed Care Plans and LDSS

Within five (5) business days of receipt of a notice from a contracted FI to cease operations or leave its service area, the MCO or LDSS, as appropriate must send each affected member receiving CDPAP a written acknowledgement of receipt of the notice to the FI and using a template to be provided by DOH send a notice to each affected CDPAP consumer. The DOH template will include the following information.

- A statement that the Plan or LDSS has received notice of the change in their FI's operations and is charged with overseeing and assisting the CDPAP member with selecting a different FI;
- The CDPAP member has the right to select a different FI of their choice and the change in the FI's business operations does not impact their care plan or their choice of personal assistant(s);
- A list of all other FIs, including contact information, the Managed Care Plan or the LDSS contracts with and operates in the member's service area;

- To ensure continuity of FI services, a request that the CDPAP consumer select another FI within ten (10) calendar days from the date the CDPAP member receives the CDPAP member notice;
- A contact at the Managed Care Plan or LDSS, including a telephone number, to address CDPAP consumers' questions or concerns; and
- A reminder that CDPAP consumers are entitled to a copy of their care plan, and instructions on how the consumer may obtain a copy of their care plan.

As part of the Managed Care Plans and LDSS role in supervising the transition to different FI services, Plans and LDSS will oversee the transfer of records by the FI to another FI and maintain regular contact with CDPAP consumer to ensure services from a different FI are in place prior to the change in operations noticed by the FI.

Within five (5) business days of the requested 10-day period provided to CDPAP members to select a different FI, Managed Care Plans and LDSS, shall issue a second notice and contact the member directly to notify and assist them with selecting a different FI. Managed Care plans and LDSS should continue to follow up with CDPAP members until the transition to a different FI is complete.

DOH will issue additional guidance regarding FFS rate codes for the FI PMPM and separate FFS direct care hourly rates effective September 1, 2019; and the DOH templates that must be used to provide the notices described above.

Questions regarding these FI Transition Provisions should be directed to the Department of Health at ConsumerDirected@health.ny.gov.