



April 20, 2021

Ms. Heidi Hayes
Acting Director
Division of Adult Care Facilities and Assisted Living Surveillance
NYS Department of Health
875 Central Ave.
Albany, NY 12206

sent via email

Re: Request for Extended Delay to Use the New Required CPA Certification Statement

Dear Heidi:

Over the past year ESAAL, LeadingAge New York and NYSCAL and our individual adult home provider members have reached out to you about their hardship in both finding an independent Certified Public Accountant (CPA) able to perform the type and level of audit necessary to sign the new required CPA certification statement for the 2019 fiscal year, and in absorbing the commensurate, significant cost increase associated with the new certification statement. As you know, COVID has caused great financial hardship for all licensed ACFs and to add to the adult home provider's burden by requiring very costly changes to the certification process for 2019 unnecessarily causes them further harm.

This continues to be a problem as we near the May 31st deadline for submission and we once again respectfully request that you delay adult home providers' required use of the new independent CPA certification statement for the ACF Annual Financial Report until at least the 2020 reporting year. For the 2019 report, we ask that the Department continue to accept the "Opinion of Independent Accountant" that had been used for all years prior.

CPAs tell those adult home providers that the new certification statement requires a far more detailed audit and that their first-year audit would need to be more comprehensive, time consuming, and costly. Moreover, they tell those adult home providers that have consolidated balance sheets that the audits they have done for 2019, while done in accordance with Generally Accepted Accounting Principles (GAAP), do not satisfy the requirements of the new consolidated CPA certification as written. They would have to go back and complete far more work at great cost.

In your December 20, 2019 response to ESAAL's December 16, 2019 letter on this matter, you indicated that the Department would "consider facility-specific extension requests" and directed any ACF seeking an extension to submit their request and justification by June 30, 2020. Despite that guidance, around the time in March 2021 that the 2019 report was issued, individual ACF providers and the associations inquired on the status of their hardship requests and your general response was that "there are no waivers", which we interpret to mean that no facility-specific extension requests for use of the new CPA statement would be granted.

It is important to note that use of the term "waiver" by any of the involved parties may have caused confusion. We acknowledge that the financial reporting requirement is in statute and therefore it cannot be waived. **The substance of our request is not to waive submission of the 2019 Financial Report itself**



(although extensions to the deadline to file should be considered on an individual basis). Rather, it is for the Department to provide an extension for the required use of the new, accompanying “Report of Independent Certified Public Accountants” 5-page statement until at least the 2020 reporting period.

Most of the adult home providers that submitted a request to the Department by June 30, 2020 relied on the fact that an extension from having to use the new 5-page CPA statement would be considered and hopefully accepted for 2019 and as such, they proceeded with plans to find a CPA and a way to absorb the doubled or tripled additional costs for the 2020 ACF financial report. Now, they either cannot find a CPA available to perform the more in-depth audit for 2019 (one adult home’s accountant went out of business due to COVID) or they are struggling with how to pay for it.

These complications are exacerbated by the Department’s delay in issuing the 2019 report during tax season. CPA’s and CPA firms are in their busiest time of the year and it has been next to impossible for adult home providers to find a firm that could perform the in-depth audit and sign the expanded certification statement before the May 31 deadline.

Last, while we appreciate that the Department included us in developing the new Annual Financial Report which, I think we all agree, is far improved from the preceding form, we were not included in any discussions about the new CPA certification statement and if we had been, we would have raised these very legitimate and serious concerns from the beginning. Our member providers always strive to comply with reasonable Department requirements, and they are truly grappling with real problems associated with using the new CPA statement on top of all things COVID. We implore you to grant them much needed relief on this matter.

We hope for a response and such relief very soon. Thank you for your consideration.

Sincerely,

Lisa Newcomb
Executive Director
ESAAL

Diane Darbyshire, LCSW
Senior Policy Analyst
LeadingAge New York

Kimberley Laviolette, RN
Executive Director
NYSCAL

cc. Val Deetz
Adam Herbst