



Department of Health

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Governor

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Commissioner

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Executive Deputy Commissioner

February 19, 2025

DAL #: DHCBS 25-02

Subject: Consumer Directed Personal
Assistance Services Program
Transition Single Fiscal
Intermediary

Dear Administrator:

As New York State implements the April 1, 2025, transition of Consumer Directed Personal Assistance Services (CDPAS) to a Statewide Fiscal Intermediary (PPL, Inc.), some consumers may choose to transfer from receiving CDPAS to receiving Personal Care Services (PCS) administered through a Licensed Home Care Services Agency (LHCSA). We encourage providers to be familiar with and aware of programmatic differences that exist between CDPAS and PCS. If you admit CDPAS consumers and onboard Personal Assistants (PAs) from a Fiscal Intermediary line of business, there are regulatory requirements that must be met and will be enforced, including, but not limited to, the following:

1. Moving from CDPAS to PCS, and from a Fiscal Intermediary (FI) to a LHCSA, must be the consumer's choice, made in consultation with their social services district or MMCO. See 18 NYCRR 505.14(b)(2)(iii), 505.28(a) and 505.28(d)(3). Consumers moving from CDPAS to PCS will no longer have joint-employer status with the ability to hire, train, schedule, and dismiss their PA. See 18 NYCRR 505.28(b)(3). Under PCS, aides are assigned by the LHCSA as their sole employer. See 10 NYCRR 766.2.
2. The Nurse Practice Act exemption under CDPAS (18 NYCRR 505.28(17)), is not applicable under PCS. Aides working for LHCSAs are not permitted to provide certain health related tasks under the consumer's direction and certain tasks are only permitted for self-directing consumers. See the Home Health Aide Matrix; Permissible and Non-Permissible Activities, https://www.health.ny.gov/facilities/home_care/docs/activities_matrix.pdf, and 18 NYCRR 505.14.
3. Personal Care Aides (PCAs) and Home Health Aides (HHAs) working in a LHCSA must pass a criminal background check prior to commencing services. See 10 NYCRR Part 402. CDPAS PAs do not require a criminal background check.
4. CDPAS PAs are not required to have any specialized training and instead are trained by the consumer. A PCA or HHA employed by a LHCSA must have a valid certificate obtained after successfully completing an approved training program. PCAs must have training of at least 40 hours with 6 in-service hours

annually, and an HHA employed by a LHCSA must have a valid training certificate after successfully completing an approved training program of at least 75 hours, with 12 hours of in-service hours required annually thereafter. The training classes and trainee name must be entered into the Home Care Worker Registry and successful completion of the course verified for both types of aides employed by LHCSAs. See 18 NYCRR 505.14, 10 NYCRR Part 403 and 10 NYCRR 700.2.

5. CDPAP PAs are selected by the consumer and can include any adult that meets the definition of a “consumer directed personal assistant” in 18 NYCRR 505.28 (b)(4). PCS cannot be provided by a parent, son, son-in-law, daughter, or daughter-in-law, or other relative residing in the home of the recipient. In limited circumstances, an allowable relative that resides with the consumer may provide PCS if the amount of care the consumer requires makes such relative's presence necessary and the consumer has received the approval of the LDSS or MCO. Approval must be documented. See 18 NYCRR 505.14.
6. A consumer that switches from CDPAS to PCS needs to have a new prior authorization, plan of care and person-centered plan completed before PCS services begin. See 18 NYCRR 505.14.

LHCSA operators and administrators are reminded that not only are all personnel employed by the agency to perform personal care or home health services subject to the requirements of 10 NYCRR 766.11 regardless of whether they were initially employed by the LHCSA or an affiliated or unaffiliated Fiscal Intermediary, the regulations in 10 NYCRR Part 766 pertain to all individuals admitted to LHCSAs as patients. The Department will use its regulatory authority to enforce the regulations governing the LHCSA license and all third-party complaints will be reviewed. Such enforcement action may include a recommendation for licensure revocation and referral to the appropriate authorities for investigation of possible Medicaid fraud subject to recoupment.

Questions regarding billing and payment should be directed to: StatewideFI@health.ny.gov.

Questions regarding LHCSA regulations should be directed to: homecare@health.ny.gov.

Sincerely,



Amir Bassiri
Medicaid Director
Office of Health Insurance Programs