

THE FINAL NEW YORK STATE BUDGET IS APPROVED AND IMPOSES SIGNIFICANT DISRUPTIONS FOR NEW YORK HOME CARE PROVIDERS

Hodgson Russ Home Care Alert
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On April 20, 2024, Governor Kathy Hochul approved the \$237 billion New York State Budget. The Fiscal Year 2025 New York State Budget's ("Budget") major provisions regarding home care are described below.

Consumer Directed Personal Assistance Program (CDPAP)

Single State-wide Fiscal Intermediary

1. As of April 1, 2025, the budget directs that there will be a single, State-wide Fiscal Intermediary ("State FI") that will be selected by the New York State Department of Health ("NYSDOH") through a procurement process for the CDPAP program.
2. The State FI will be required to subcontract out to other entities to provide any FI services under the CDPAP.
 1. The legislation requires one of the subcontractors to be a service center for independent living that has been providing FI services since January 1, 2024, or earlier.
 2. The State FI must also subcontract with *at least* one entity per each Managed Care region (there are four) that has a proven record of delivering services to individuals with disabilities and the senior population and has been providing Fiscal Intermediary services since January 1, 2012.
 3. All subcontractors must be able to provide services with cultural and linguistic competency specific to the population of the consumers and those of the available workforce and have demonstrated compliance with all applicable federal and state laws and regulations, including but not limited to, marketing and labor practices, cost reporting, and electronic visit verification requirements.
 4. All subcontractors must register with the NYSDOH within 30 days of being selected by the FI.

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5. All subcontractors will be paid directly by the State FI.
3. The NYSDOH will abandon the prior RFO process pursuant to which managed care plans and local social service districts were to contract with Lead Fiscal Intermediaries selected through the 2019 Request for Offers (RFO#20039) or other qualified offerors who submitted survey responses related to that RFO.
4. We anticipate that the NYSDOH will provide more details regarding when it plans to open the procurement process related to the selection of the State FI and its related subcontractors.

Budget Proposals that were not Enacted Under the Final Budget

CDPAP Wage Parity Remains in Effect

Under the proposed Budget, the wage and benefit requirements under the Wage Parity Act for CDPAP personal assistants in New York City, and in Nassau, Suffolk, and Westchester would have sunset effective October 1, 2024. These provisions were rejected in the final Budget so the Wage Parity requirements for covered Pas remain in effect.

MCO Moratorium and Bid Process

The proposed Budget included a moratorium regarding the processing and approval of applications seeking authority to establish certain managed care providers, including managed long term care organizations ("MLTCs") and health maintenance organizations ("HMOs"), and applications that sought to expand the scope of eligible enrollee populations served under those organizations. The proposed Budget also established a competitive bid process whereby managed care providers would have been required to submit official proposals to the Commissioner of the Department of Health to continue operating in the State. The final Budget rejected the proposed MCO moratorium and competitive bid process.

Hospitals Eligible to Provide Home Care

The proposed Budget would have expanded the types of entities that could have provided home care services. In an effort to promote wider access to home care and to manage overall Medicaid spending, the Budget would have authorized general hospitals to provide care in patients' homes without obtaining home care agency licensure, as required by Article 36 of the New York State Public Health Law. This change would have allowed hospitals to provide off-site primary care and medical care services, including but not limited to acute care and preventative wellness care, to patients who are unable to leave their residence to receive services at the general hospital. However, participating hospitals would have remained unauthorized to primarily provide "home care services" typically provided by home care agencies, such as home health aide services, personal care services, or therapeutic services like physical therapy, speech therapy, or occupational therapy.

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