

Home Care Developments

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CDPAP RFO Repealed in Many (but not all) Respects

The final language of the New York State Budget has started to be released. We have not yet seen whether Fair Pay for Home Care has made it into the Budget. There were troubling last-minute reports that the home care worker base wage has been raised by \$3.00/hour, presumably Statewide, with no concurrent increase in reimbursement. Thus, we are anxiously awaiting to see the final language on Fair Pay. However, there are major changes with respect to the CDPAP RFO in the Budget, and we discuss only that topic from the Budget in this alert.

Effective immediately, the law has been revised to state that any FI that was deemed qualified on February 11, 2021 by the DOH as a result of the CDPAP RFO, is eligible to enter into a contract with New York State to provide FI services, so long as:

1. The applicant was providing FI services for at least 200 consumers in a city with a population of more than 1 million at any time between 1/1/2020 and 3/31/2020 **OR**
2. The applicant was providing FI services for at least 50 consumers in another area of New York State at any time between 1/1/2020 and 3/31/2020.

The consumer census for the above purposes can be measured on any date between 1/1/2020 and 3/31/2020. The law does not seem to require a consistent census of 200 or 50 consumers in this first quarter of 2020. However, it is not clear what it means to be “providing services.” Presumably, the consumer must have received at least 1 day of services from the FI in order to “count” as being a consumer of the FI, but that is not certain. Likely, consumers “in the pipeline” who have not yet begun to receive services will not count.

The State will require providers to certify to compliance with the foregoing requirements. An attestation form will be published by the DOH, and a response will be required within 60 days. Any late submission will disqualify an applicant from the RFO. The attestations will be audited by OMIG, and any false or inaccurate attestation will render the FI’s contract with New York State null and void. It appears that the attestations will only apply to those agencies that were not initially selected to be lead fiscal intermediaries. Thus, the originally selected lead FIs will seemingly not be required to complete these attestations.

Contracts awarded per these requirements will be limited to the service

areas in the initial RFO application. Thus, for fiscal intermediaries that have operations in New York City and outside of New York City, it appears that so long as the fiscal intermediary qualifies under either the 50 or the 200 test, it can provide services in all the counties that it had selected on its RFO application.

Agencies previously approved through the RFO will keep their status as a lead fiscal intermediary. Thus, an agency previously approved for the CDPAP RFO that does not meet the 200 or 50-consumer threshold will continue to be eligible to contract with New York State for a RFO as a lead fiscal intermediary, even though it would not have meet the 200 or 50-consumer threshold.

If you have any questions about the CDPAP RFO, please contact us.

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