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Implementation of the New York Independent Assessor (NYIA) for Personal Care and Consumer Directed Personal Assistance Services (PCS/CDPAS)

Effective May 16, 2022, the New York State (NYS) Department of Health (DOH) will begin operation of the New York Independent Assessor (NYIA) through the NYS DOH contractor. The first phase of the implementation, occurring statewide, is for the initial assessment process under which the NYIA will conduct:

- initial assessments for individuals seeking personal care services (PCS) and/or consumer directed personal assistance services (CDPAS) and/or Medicaid Long Term Care (MLTC) Plan eligibility for the first time; **independent** clinical assessments, including medical exam and Practitioner Order (PO), for individuals seeking PCS/CDPAS and/or MLTC Plan eligibility; ***and***
- independent plan of care reviews for high needs cases defined as plans of care that, for the first time, are more than 12 hours per day on average of PCS/CDPAS (+84 hours a week, or >360 hours a month).

The "initial assessment process" is defined as the Community Health Assessment (CHA), clinical exam and practitioner's order, and, where applicable, the independent review process, conducted by the NYIA for those individuals seeking PCS/CDPAS and/or MLTC Plan eligibility.

The NYIA processes outlined above will include the CHA, which is currently conducted by the Conflict-Free Evaluation and Enrollment Center (CFEEC), Local Departments of Social Services (LDSS), and Medicaid Managed Care Organizations (MCO) including MLTC Plans. The CFEEC operations will be fully subsumed into the NYIA umbrella and remain a conflict-free evaluation. The NYIA will be conducting the appointments for the CHA and medical exams per the individual's preference of in-person or telehealth modalities.

I. Background

In Chapter 56 of the Laws of 2020, §11 required that the NYS DOH establish and procure services of an independent assessor. Subsequently, the NYS DOH promulgated regulations at 18 New York Codes, Rules and Regulations (NYCRR) §505.14 for personal care services and 18 NYCRR §505.28 for CDPAS to effectuate these changes. Letters posted by the NYS DOH outlined the effective date of regulatory changes and updates. These letters can be found on the NYS DOH New York Independent Assessor (NYIA) web page titled, "Document Repository".

Below is a summary of the regulatory and process changes that have already taken place, will be taking place, or will not be taking place, regarding the implementation of the NYIA.

II. Changes Effective November 8, 2021

Upon adoption of the regulations which were **effective November 8, 2021**, the following changes were made:

- CHAs for the provision of PCS and CDPAS became valid up to 12 months ***and***
- practitioners able to sign physician order forms DOH-4359 and HCSP-M11Q were expanded to include:
  - Doctors of Medicine (MDs) and Doctors of Osteopathic Medicine (DOs) licensed in accordance with Article 131 of the New York Education Law; ***or***
  - physician assistants (PAs) or specialist assistants registered in accordance with Article 131-B of the New York Education Law; ***or***
  - nurse practitioners (NPs) certified in accordance with Article 139 of the New York Education Law.

III. Changes Effective May 16, 2022

NYS DOH is implementing the following changes, **effective May 16, 2022**:

- The NYIA will be conducting all initial assessments using the Uniform Assessment System for New York (UAS-NY) CHA for adults (18 years of age and over) **prior** to the required medical exam.
- An individual's practitioner will no longer be conducting a medical exam for the initial assessment process for adults (18 years of age and over) seeking PCS and/or CDPAS. The medical exam will be conducted by a clinician from the NYIA having no prior provider-patient relationship with the individual.
- Adults (18 years of age and over) seeking PCS and/or CDPAS for the first time will no longer be required to have a physician order form (DOH-4359 and HCSP-M11Q).
  - The medical exam will now be conducted by the NYIA Independent Practitioner Panel (IPP), which will then complete a PO form to be submitted to the LDSS or Medicaid MCOs.
  - POs completed by the IPP will be valid for up to 12 months.
- The NYIA PO will take the place of the physician order forms (DOH-4359 and HCSP-M11Q) for adults (18 years of age and over) seeking PCS and/or CDPAS.
- Practitioners able to sign the NYIA PO forms include the following provider types: MDs, DOs, NPs, PAs, and specialist assistants.

Transition: If an individual scheduled an assessment prior to May 16, 2022, they will need to complete the assessment process under the prior rules. For example, if an individual scheduled a PCS/CDPAS prior to May 16 and was scheduled for a CHA after May 16, 2022, the CFEEC process would continue as currently conducted:

- Maximus conducts a CHA for MLTC Plan eligibility;
- plan conducts another CHA for services, ***and***
- a physician order is obtained by the individual from their chosen practitioner.

In addition, as of May 16, 2022, a CFEEC CHA is now valid for 12 months. This action repeals the current CFEEC CHA expiration of 75 days in MLTC Plan policy 16.08.

IV. Changes Effective July 1, 2022

The NYIA will begin to conduct the initial assessment process for:

- individuals seeking PCS and/or CDPAS based on an immediate need for PCS and/or CDPAS, and
- Medicaid MCO members seeking PCS and/or CDPAS for the first time and expedited process.

V. Processes and Programs Not Changing Until Further Notice

The following processes or programs are not being implemented at this time by the NYS DOH. NYS DOH will provide prior notice when implementation dates are determined.

- The NYIA will not be conducting reassessments for adults (18 years of age and over). The LDSS and Medicaid MCOs will still perform all routine periodic and non-routine reassessments for adults (18 years of age and over) until such time as they are folded into the NYIA process.
- The NYIA will not be conducting any assessments for the pediatric population (zero through 17 years of age). This means the LDSS and Medicaid MCOs will still conduct reassessments for the pediatric population.
- The NYIA will not be conducting medical exams or writing POs for adults (18 years of age and over) having a reassessment, or children (zero through 17 years of age) having any assessment (initial or reassessment). They are still required to have a medical exam performed by their own practitioner prior to the reassessment and the practitioner is required to complete a physician order form (DOH-4359 or HCSP-M11Q) for PCS or CDPAS.
- The NYIA, Medicaid MCO, or LDSS will **not** be requiring that an individual meet a minimum need requirement of more than two activities of daily living (ADLs) or more than one ADL, with a dementia or Alzheimer's Disease diagnosis to obtain PCS and/or CDPAS or to enroll in an expedited process.

VI. Processes and Programs Not Changing at Any Time

No changes are planned, at any time, for the following processes or programs:

- The assessment tool used by the NYIA will remain the same CHA housed in the NYS DOH UAS-NY.
- An independent review of high needs cases is not required for plans of care that are currently above 12 hours per day, on average, and remain at that level.
- LDSS and Medicaid MCOs remain responsible for the development of the person-centered plan of care for all individuals.
- Programs or populations that will not be folded into the NYIA process include:
  - Program for All-Inclusive Care for the Elderly (PACE),
  - Assisted Living Programs (ALP), ***and***
  - Children zero through three years of age.

VII. Useful Definitions

New York Independent Assessor (NYIA): Through the NYS DOH contracted vendor, the NYIA has been created to conduct independent assessments, provide independent POs, and perform independent reviews of high needs cases for PCS and CDPAS. The NYIA will also take over the work currently done by the CFEEC to assess individuals for MLTC Plan eligibility.

Community Health Assessment (CHA): The assessment tool used in NYS to determine the need for community based long term services and supports (CBLTSS) including PCS and CDPAS, home health aide services, home care, which includes nursing, physical therapy, speech and occupational therapy, as well as adult day health care. For the purposes of NYIA, the CHA is referenced in connection with its use in assessing needs for PCS and/or CDPAS and MLTC Plan eligibility. The assessment tool used in NYS is the UAS-NY and is part of the interRAI suite of assessments. It has been in continuous use in NYS since 2011 and is not changing based on the revised statute or regulation. The NYIA will continue to use this tool for the independent assessments.

Independent Practitioner Panel (IPP): The regulations replace the requirement for a physician's order to authorize PCS and/or CDPAS with a requirement that independent reviews be ordered by a qualified, independent practitioner, and expand the list of ordering practitioners to include MDs, DOs, NPs and PAs contracted to work for the IPP under the NYIA.

Clinical Appointment: The IPP clinician will conduct a medical exam, review the CHA and any supporting documents, and issue a PO for PCS and/or CDPAS.

Practitioner Order (PO): The PO is the order form, which is required to authorize PCS and/or CDPAS, that must be completed by the IPP clinician after conducting the medical exam, reviewing the CHA in the UAS-NY and determining if the individual is self-directing, or has an appropriate self-directing other, and can safely receive PCS and/or CDPAS on a high based on their medical stability. The PO replaces the current used physician's order forms (DOH-4359 and HCSP-M11Q), which are obtained prior to an assessment.

Practitioner Statement of Need: The Practitioner Statement of Need (DOH-5779) is the form used by adults (18 years of age and over) to help substantiate a need for services when the adult is seeking to obtain PCS and/or CDPAS. It includes nursing, physical, speech and occupational therapy, as well as adult day health care. For the purposes of NYIA, the CHA is referenced in connection with its use in assessing needs for PCS and/or CDPAS and MLTC Plan eligibility. The assessment tool used in NYS is the UAS-NY and is part of the interRAI suite of assessments. It has been in continuous use in NYS since 2011 and is not changing based on the revised statute or regulation. The NYIA will continue to use this tool for the independent assessments.

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High Needs Cases: For the purposes of the Independent Review Panel, high needs cases are defined as needing, for the first time, more than 12 hours of care per day, on average.

Plan of Care (POC): A person-centered plan of care developed in consultation with the individual and their representative(s), if any, that reflects the individual's needs, preferences, and goals in receiving services to maximize independence and community integration while considering medical and cultural considerations for the provision of care.

Telehealth: Synchronous live interactive video teleconference.

VIII. Additional Resources

- PCS Regulations at 18 NYCRR §505.14
- CDPAS Regulations at 18 NYCRR 505.28
- Administrative Directive Memorandum (ADM) 11-LDSS 22 OHIP/ADM-01
- MLTC Policy 22.01
- Mainstream Managed Care (MMC) Guidance
- NYS DOH "New York Independent Assessor (NYIA)" web page
- Medicaid Redesign Team (MRT) II Legislative Letters for Long Term Care

IX. Contact Information

- All questions regarding regulations or NYIA process should be sent to independentassessor@health.ny.gov.
- Providers with NYIA/Independent Assessor questions should call (855) 222-8350/TTY (888) 329-1541 or visit the New York Independent Assessor website.

X. Frequently Asked Questions

1. **How can an individual/caregiver/Medicaid MCO/LDSS request an initial assessment?**
   An individual/caregiver/Medicaid MCO/LDSS can call the NYIA toll-free helpline at (855) 222-8350 to request an initial assessment. NYIA will schedule an initial CHA and Clinical Appointment during the same phone call.
2. **What assistance will be provided to individuals without active Medicaid when calling NYIA to schedule an initial assessment?**
   If individuals do not have active Medicaid, NYIA will refer them to their LDSS to apply for Medicaid or check on the status of their Medicaid application, as applicable.
3. **What is the timeline for the non-expedited assessment scheduling (assuming individual has active Medicaid)?**
   The CHA and Clinical Appointment will be scheduled and completed by NYIA within 14 calendar days of contact with NYIA.
4. **What mode(s) of assessment and clinical appointment are available to individuals?**
   Individuals will be asked to choose a Zoom video/telehealth or an in-person assessment and clinical appointment. A nurse assessor will call the individual 24 to 48 hours prior to the scheduled assessment to help prepare them for the appointment, including providing instructions on how to use Zoom for those who select telehealth appointments.
5. **Will NYIA conduct the CHA and Clinical Appointment in the individual's primary language/other languages as requested?**
   Yes. NYIA has access to interpreter services, via a call center, to conduct the CHA and Clinical Appointment in the individual's preferred language.
6. **How and when will the individual be notified of the CHA and clinical appointment outcome?**
   NYIA is responsible for generating and mailing notices to individuals informing them of the outcome of their CHA and Clinical Appointment.
7. **How long will the CHA and PO be valid for?**
   Unless there's a change in an individual's condition or another CHA is requested or required, the CHA result and PO will be valid for 12 months.
8. **How can an individual request PCS or CDPAS after the NYIA conducts the CHA and Clinical Appointment?**
   Once an individual has a current CHA and PO on file, the individual or their authorized representative, must reach out to the Medicaid MCO or LDSS (as applicable) to request PCS or CDPAS. After the completion of the CHA and Clinical Appointment NYIA will send the individual, and their authorized representative if applicable, a notice and direction to contact the Medicaid MCO or LDSS to request PCS or CDPAS.

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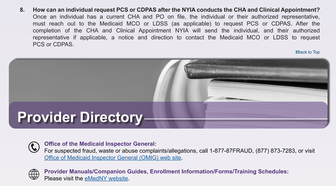

Provider Directory

- **Office of the Medicaid Inspector General:**
  For suspected fraud, waste or abuse complaints/allegations, call 1-877-87FRAUD, (877) 873-7283, or visit Office of Medicaid Inspector General (OMIG) web site.
- **Provider Manuals/Companion Guides, Enrollment Information/Forms/Training Schedules:**
  Please visit the eMedNY website.
- **Providers wishing to listen to the current week's check/EFT amounts:**
  Please call (866) 307-5549 (available Thursday PM for one week for the current week's amount).
- **For questions about billing and performing MEVS transactions:**
  Please call the eMedNY Call Center at (800) 343-9000.
- **Provider Training:**
  Please enroll online for a provider seminar. For individual training requests, call (800) 343-9000.
- **Beneficiary Eligibility:**
  Call the Touchtone Telephone Verification System at (800) 997-1111.
- **Medicaid Prescriber Education Program:**
  For current information on best practices in pharmacotherapy, please visit the following websites:
  - DOH Prescriber Education Program page
  - Prescriber Education Program in partnership with SUNY.
- **eMedNY**
  For a number of services, including: change of address, updating an enrollment file due to an ownership change, enrolling another NPI, or revalidating an existing enrollment, please visit eMedNY's Provider Enrollment page and choose the appropriate link towards your needs.
- **NY Medicaid Electronic Health Record (EHR) Incentive Program**
  Contact the New York Medicaid EHR Call Center at (877) 646-5410 for assistance.
- **Comments and Suggestions Regarding This Publication**
  Please contact the editor, Angela Lince, at medicaidupdated@health.ny.gov.

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