



**Invitation and Requirements for Licensed Home Care Services Agencies to Participate in the NY State of Health Private Pay Home Care Services Pilot Program: Phase Two  
May 6, 2022**

**I. Introduction**

This invitation is issued by the New York State Department of Health (DOH) to invite New York State Licensed Home Care Services Agencies (LHCSAs) to participate in the “NY State of Health Private Pay Home Care Services Program Pilot” (the Private Pay Home Care Program or Program) in the counties of New York, Kings, Bronx, Richmond, Queens, Nassau, Suffolk, and Westchester (the “Phase Two Invitation”). This Invitation is part of the DOH’s implementation of the recommendation by the Medicaid Redesign Team II (MRT II), which was included in the State Fiscal Year 2020-21 Enacted Budget, to create an option supported by the NY State of Health Marketplace that would allow individuals to more easily connect to private pay home care services from LHCSAs, and potentially delay the need for Medicaid or other more comprehensive insurance affordability programs.

Phase One of the Private Pay Home Care Program launched in 2020. On July 23, 2020, DOH issued its invitation to LHCSAs to participate in the Program in Westchester, Nassau and Suffolk counties in 2021 (the “Phase One counties”). LHCSAs participating in Phase One of the program (“Phase One LHCSAs”) through agreement with DOH must respond to the Phase Two Invitation to continue to participate in the Program in the Phase One counties and to add the counties of New York, Kings, Bronx, Richmond and Queens (the “Phase Two counties”), subject to the requirements of the Phase Two Invitation.

LHCSAs who did not participate in Phase One of the Program may respond to the Phase Two Invitation and participate in all eight pilot counties, subject to the requirements of the Invitation.

Following the submission and review of the information required by this Invitation, the DOH will review whether LHCSAs that respond (Applicants) meet all minimum participation standards. Applicants found by the DOH to satisfy all minimum standards and requirements, and that sign an Agreement with the DOH containing the terms and conditions for participation in this Program, will be selected and eligible to offer home care services through the Marketplace. This Phase Two Invitation is the only opportunity for LHCSAs to apply for and receive approval to be offered on the Marketplace for the Pilot Program. LHCSAs that do not apply for participation will have an opportunity to apply at a later date during any expansions of the Program beyond the current pilot.

### Schedule of Key Events

| Event                                | Due Date             |
|--------------------------------------|----------------------|
| Invitation Released                  | 5/6/22               |
| Letters of Interest Due              | 5/13/22              |
| Written Questions Accepted           | 5/4/22 – 5/18/22     |
| Responses to Questions Posted        | On or around 5/23/22 |
| Participation Proposals Due          | 6/03/22              |
| Approval of LHCSAs for Participation | 6/24/22              |
| Agreement between DOH and LHCSAs     | 8/1/22               |

### Background

NY State of Health, the official health plan Marketplace of New York State, authorized by the Federal Patient Protection and Affordable Care Act of 2010, was established in April 2012 by Governor Cuomo’s Executive Order 42 and codified in the NY Public Health Law in 2019. The NY State of Health Marketplace has successfully increased the affordability and accessibility of health insurance coverage in New York. It provides one central resource through which consumers can apply for insurance affordability programs for which they may be eligible, and shop for a health plan that meets their particular needs.

The Private Pay Home Care Program aligns with the ease and accessibility of the Marketplace, providing consumers with a resource to review home care aides that are available in their area and select private pay services that meet their needs; potentially avoiding comprehensive insurance programs such as Medicaid, which includes a personal services benefit.

While individuals enrolled in NY Medicaid may be assessed for coverage of home care services, New Yorkers who are not eligible for Medicaid are currently left to find a home care aide and navigate the purchase of home care services on their own. The Private Pay Home Care Program provides these consumers with a trusted source through which they can select a home care aide and make arrangements for care with agencies that are licensed by the DOH and which have met and agreed to certain criteria under contract with the DOH. This Program facilitates the review and selection of private pay home care service providers to provide the needed home care aide services from licensed agencies, delaying the need for more comprehensive insurance affordability programs, such as Medicaid, that offer home care services as a benefit.

The DOH oversees the operation of home care services throughout New York State pursuant to Article 36 of the NY Public Health Law including providing for the collection and public accessibility of information concerning all organized home care services. New Yorkers receive home care services through home care services agencies licensed under Article 36 of NY Public Health Law. Home care services, such as housekeeping, grocery shopping, personal hygiene care, and assistance with preparation of meals, allow individuals to remain safely in their home or in the homes of loved ones by providing additional assistance.

The Private Pay Home Care Program allows New Yorkers to shop for home care services for themselves, their family members, or friends from the same trusted source from which more than 6.5 million New Yorkers, 1 in 3, enroll in health insurance coverage. Understanding that the choice of a home care aide is highly personal, NY State of Health is collaborating with a technical platform specialist that has initiated similar programs in other parts of the country, to facilitate the ability of the consumer or their family member to select a home care aide based on the consumers preferences, including geographic location, language, and gender and/or gender identity of the service provider.

## **II. Program Description**

Patterned on the highly successful NY State of Health Marketplace, the process works as follows; Consumers or their family members access the NY State of Health website ([nystateofhealth.ny.gov](http://nystateofhealth.ny.gov)) and select the link for private pay home care services([www.carina.org/homecare/nysoh](http://www.carina.org/homecare/nysoh)). Because the consumer is not requesting financial assistance or insurance coverage for such services, they do not complete a Marketplace application or provide information on their household size or income. Rather, based on the county in which the home care services will be rendered, the consumer is able to view information for home care services available from LHCSAs that are determined by the DOH as meeting the Participation Requirements below, including geographic location, service availability, hourly rates, gender and/or gender identity, and language(s) spoken.

The website is kept current by the participating LHCSAs with worker availability and information on their hourly rates. The consumer selects an agency with an available home care aide of their choice, schedules a free in-home or telehealth evaluation with the LHCSA if applicable, and will then work directly with the LHCSA to determine the consumer's needs, which will include duration of care and hours of care. Payment for services will be made directly by the consumer to the LHCSA. Home care aides are only permitted to perform services within their approved scope of practice.

## **III. Participation Requirements**

### **Eligible Applicants**

The DOH has identified eight pilot counties: New York, Kings, Bronx, Richmond, Queens, Nassau, Suffolk, and Westchester. These pilot counties were selected based on availability of services and the demographics of the county population, specifically applying these criteria: reasonable choice of LHCSAs in the county; size of eligible population in the county; interest among eligible LHCSAs in the county; and adequate supply of home care aides in the county.



The DOH is seeking interest from LHCSAs to participate in the Program in these pilot counties. Phase One LHCSAs already participating in the Program must respond to this Phase Two Invitation to continue operating in the Phase One counties; and to add Phase Two counties, in accordance with the requirements outlined herein.

LHCSAs are required to meet the criteria outlined below to be approved to participate in the Program:

1. Must be licensed and registered under Article 36 of the NY Public Health Law at the time the application for this Program is submitted, and in good standing with the DOH with respect to licensing, registration and compliance with the requirements of the NY Public Health Law and Part 766 of Title 10 of the NY Code of Rules and Regulations;
2. Must comply with state and federal wage and hour laws, as demonstrated by attestation submitted with this application and verified by the DOH as part of the review of proposals;
3. Must be licensed to provide the following services: personal care, and home health aide. Applicants should ideally also have the capacity to provide, at the consumer's option, remote patient monitoring and store and forward technology but is not required to participate in this program. Remote patient monitoring refers to the use of digital technologies to monitor and capture medical and other health data from patients. Store-and-forward technology refers to the electronic transmission of a patient's health information in the form of patient-specific digital images and/or pre-recorded videos from a provider at an originating site to a telehealth provider at a distant site;
4. Applicants must be authorized to provide services in all eight pilot counties and must have a minimum of 350 employees<sup>1</sup> who have certification to provide personal care, or home health aide services across the counties in the pilot area. However, Phase One LHCSAs are required to add the Phase Two expansion counties (Bronx, Kings, New York, Queens, Richmond) if they are licensed, authorized and operating in those counties. If a Phase One LHCSA is either (a) not licensed and authorized in the Phase Two counties, or (b) is licensed and authorized in the Phase Two counties but not operating, in one or more of those counties on the

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<sup>1</sup> As outlined in this Invitation, for the purposes of the pilot program, agencies must have a minimum of 350 employees who have certification to provide personal care, or home health aide services across the counties in the pilot area. It is expected that there will be fluctuations in the number of employees over time. Accordingly, DOH will consider the requirement as being satisfied if the agency has employed the requisite number of individuals at any point over the most recent 12-month period. Additionally, LHCSAs that have an employee count within 10% of the required minimum number of employees over the most recent 12-month period and that meet all other eligibility criteria are encouraged to submit a participation proposal. DOH reserves the right to grant exceptions to this specific requirement regarding the minimum number of employees on a case-by-case basis when it determines that granting such exception is non-discriminatory, promotes access, and in the best interest of consumers.



date this Invitation is issued, those Phase One LHCSAs will be “grandfathered” and allowed to continue to participate in the current Phase One counties without expanding to the Phase Two counties. However, if a Phase One LHCSA becomes licensed, authorized and begins operating in one or more of the Phase Two counties, they must agree to participate in the program in such county(ies.);

5. Must be in compliance with all state and federal regulations as evidenced by audits, surveys and other reviews conducted by the DOH, and not excluded or terminated by any state Medicaid program or federal agency. Applicants must submit a copy of the most recent annual audit or results of most recent relicensure survey and accepted plan of correction, if applicable;
6. Must provide documentation of state-required in-service training and other additional trainings offered to home care aides including, but not limited to, dementia care or other disease conditions; such training options must already be in place at the time of application submission; and
7. Must be enrolled in NY Medicaid, render services to Medicaid fee-for-service members, and have a contract with one or more Medicaid Managed Long Term Care plan(s) serving one or more of the counties in the pilot area.

#### Rates, Customer Service, and Program Reporting Requirements

The Applicant must:

1. Charge no more than the rates charged to private pay consumers but are encouraged to offer consumers preferential rates based on the volume of services. The DOH will ensure that the preferential rates are not lower than the Medicaid rate, per federal law;
2. Applicants must complete Attachment B as part of their proposal with information on their standard hourly rates and preferential rates for private pay consumers for the home care services listed above within the pilot counties, which will be posted on the DOH website;
3. Be adequately staffed to provide phone assistance to respond to consumer inquiries about the Program promptly during regular business hours, Monday to Friday between 9am and 5pm EST;
4. Be adequately staffed during regular business hours, Monday to Friday between 9am and 5pm EST, to address complaints about the Program; and
5. Agree to report to the DOH on (1) the number of contracts received through this Program; (2) the number of individuals the Applicant provided services to through this Program; (3) reported consumer satisfaction with services received through this Program; (4) the number of staff who have completed continuing education training; and (5) other information as determined by the DOH.

### Agreement with the DOH

Following completion of the activities outlined in this Invitation and having been determined to have met all the requirements, the DOH will provide Applicants who meet the requirements outlined above with an Agreement that contains the specific terms and conditions for participation in this Program. The Agreement by and between the DOH and individual LHCSAs will address the requirements related to being listed as a service provider through the Marketplace, and able to connect with consumers seeking private pay services. Applicants must enter into an Agreement with the DOH for their services to be approved to be offered through the Marketplace.

As part of the Agreement by and between the DOH and individual LHCSAs resulting from this Invitation, the LHCSAs will agree to:

1. Accept all consumers who access services through the pilot, except where it is determined that the consumer cannot be served safely at home;
2. Make any available home care aide employed by the agency available to consumers seeking such services through the pilot without discrimination;
3. Cooperate with contractors selected by the DOH to administer the pilot;
4. Keep the information about the availability of home care aides current on the Program's website;
5. Share information with the DOH or its designees to support assessment of the efficacy and impact of the pilot program;
6. Abide by federal and state laws and regulations, including as relates to the privacy and confidentiality of consumer information; and,
7. Be ready to begin Phase two on the Phase two pilot effective date, currently estimated to be August 1, 2022.

**The DOH is not providing any funding or remuneration to individual LHCSAs pursuant to the Agreement or Program.**

The Agreement by and between the DOH and individual LHCSAs resulting from this Invitation will be effective only upon approval by the New York State Office of the Attorney General (OAG) and the Comptroller of the State of New York (OSC).

### **IV. Changes to the Invitation**

The DOH reserves the right to:



1. Withdraw the Invitation at any time, at the DOH's sole discretion.
2. At any time during the Invitation process, modify the Invitation. Modifications shall be made through the issuance of amendments and/or addenda to the Invitation. Scheduled dates may need to be adjusted. All Prospective Applicants and Applicants will be informed of such changes, and Applicants may be directed to supply additional information in response to such amendments.
3. Disqualify any Applicant and/or Application that fails to conform to the requirements of this Invitation.
4. Seek clarifications and revisions of Applications. The DOH may require clarification from individual Applicants to assure a complete understanding of the Application and/or to assess the Applicant's compliance with the requirements in this Invitation.

#### **V. Application Process**

Applicants are requested to submit non-binding **Letters of Interest** as soon as possible, but no later than the date set forth in the Schedule of Key Events, via electronic mail to [NYSOHHomeCare@health.ny.gov](mailto:NYSOHHomeCare@health.ny.gov). Submission of the Letter of Interest does **not** bind a prospective Applicant to submit an Application.

**Questions.** Questions about this Invitation may be directed to [NYSOHHomeCare@health.ny.gov](mailto:NYSOHHomeCare@health.ny.gov). All questions regarding the Invitation must be submitted in writing by the deadline specified in the Schedule of Key Events. The DOH will respond in writing and will post the questions and answers on the NY State of Health website ([nystateofhealth.ny.gov](http://nystateofhealth.ny.gov)) on or around the date listed in the Schedule of Key Events.

**Applications.** Applicants are required to submit a participation proposal via electronic mail to [NYSOHHomeCare@health.ny.gov](mailto:NYSOHHomeCare@health.ny.gov) by the due date set forth in the Schedule of Key Events. Late submissions will not be accepted. Applicants must use the application forms included with this Invitation. The Attestation to Participation Proposal, included with Attachment B, must be notarized.

**Vendor Responsibility.** On or around the same time that Applicants submit participation proposals, Applicants will be notified of their responsibility to complete the New York State "Vendor Responsibility" process through the New York State VendRep System. The VendRep system instructions are available at [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or go directly to the VendRep system online at <https://portal.osc.state.ny.us>. For questions about the VendRep System contact 866-370-4672 or 518-408-4672 or [ITServiceDesk@osc.state.ny.us](mailto:ITServiceDesk@osc.state.ny.us)



## **VI. Federal and State Laws and Regulations**

The Applicant shall at all times strictly adhere to all applicable federal and state laws, regulations, and instruction as they currently exist and may hereafter be amended or enacted. Applicant acknowledges that such laws include, but are not limited to the following:

5. NY Public Health Law Art 36 (§ 3600 *et. seq.*)  
Home Care Services
6. NY Public Health Law § 3616-A  
Quality Assurance
7. 10 NYCRR, Part 766  
Licensed Home Care Services Agencies
8. NY Public Health Law § 2899-a  
Requests for criminal history information concerning prospective employees
9. 45 CFR Parts 160 and 164  
General administrative requirements, Security and Privacy