

**New York State Department of Health
Office of Health Insurance Program
Division of Long Term Care
The New York State Balancing Incentive Program
Consumer Directed Payment Program
Questions and Answers December 16, 2014**

This document responds to and clarifies questions raised by the release of the December 3, 2014 Application for Consumer Directed Personal Assistance Service (CDPAS) Fair Labor Standards Act (FLSA) Pool Participation Application for CDPAS Fiscal Intermediaries (FI). **These CDPAS FLSA materials are posted on the DOH/MRT web site.** If you have any questions regarding this information, please email to the following address: BIP@health.ny.gov.

Programmatic Questions

- 1. Will organizations that do not have a Medicaid Provider ID # for their CDPAS Fiscal Intermediary be considered for funding?**

The intent of this pool is to only provide funding to those FI's that have a Medicaid provider ID number. This number is required for disbursements and tracking allocated funds.

- 2. Will Fiscal Intermediaries that intend to cap hours worked at 40 per week as of 1/1/2015 be eligible to participate in this funding opportunity?**

This pool is only directed at FI's that are not planning to impose a 40 hour per week limit on the number of hours the CDPAS workers may work. The intent is to support those FI's that plan on paying for hours worked over 40.

- 3. What about Fiscal Intermediaries that encourage CDPAS workers to avoid working more than 40-hours per week, but will pay overtime on an exception basis for emergencies with prior authorization by the FI. Would they be eligible for funding?**

The Department encourages all FI's that meet the application criteria to submit an application for consideration. Overtime policies will be reviewed and a determination will be made based on the information provided in the application.

- 4. Many FI's believe that imposing a cap or limit on hours worked above 40 hours per week is necessary to remain operational. Are there other strategies that FI's can implement to maximize any of the funding they are allocated?**

FI's are encouraged to manage all work schedules in the most efficient manner possible by continuing to work collaboratively with the consumer.

5. If the Fiscal Intermediary continues to follow their current policy and pay overtime, is reimbursement guaranteed?

The Consumer Directed Personal Assistance Service (CDPAS) Fair Labor Standards Act (FLSA) Pool is a temporary funding opportunity and not a reimbursement of overtime hours.

6. Will the number of overtime hours submitted by the Fiscal Intermediary be capped by the Department when determining funding?

The amount of funding allocated to each FI will be based solely on the information submitted to the Department.

7. The new rule states that the Fiscal Intermediary must cover travel time, will travel time costs be considered in this payment?

All applications will be reviewed on a case-by-case basis. The Department will review and consider any information pertaining to travel time as it relates to allocation determinations.

8. Are live-in cases impacted by this in any way?

CDPAS workers that work for consumers receiving live-in care could be affected if their 13 hour work days exceed 40 hour in a week. Hours in excess of 40 hours per week should have been accounted for in the application.

9. How will the funding be distributed?

The Department anticipates that payments will be in one, two or possibly three Medicaid payment cycles.

10. If an FI is imposing a reduction in the hourly wage, should this information be included in the application?

The Department requires FI's to share all information relevant to OT policies in effect during the quarter ended 6/30/14 and any changes to their policies effective 1/1/15 with as much detail as possible.

11. Once the \$5 million is expended, how will overtime be paid on an ongoing basis?

This funding opportunity is available to temporarily assist FIs as a "bridge" through 6/2015. The long term fiscal solution will be part of the 15-16 budget discussions.

Administrative Questions

- 12. Some Fiscal Intermediaries operate at more than one location. Should each location submit an application or is only one organizational application necessary to be considered?**

Only one application on behalf of the organization is necessary.

- 13. Can previously submitted applications be re-submitted with additional details pertaining to the overtime policy question?**

Submitting additional information is allowed and may be required in order for the application to be complete, but it must be received by the **12/19/14 deadline**.

Please Note: The application requires that FI's submit the overtime policy in effect for the 4/1/14 to 6/30/14 period and any changes to their policies effective 1/1/2015 or a statement that the existing policy will remain in effect.

- 14. When will decisions be made on funding?**

The Department anticipates decisions will be made the week of December 22, 2014.

- 15. Will there be additional reporting requirements through-out the disbursement cycle?**

The Department will require additional reporting and attestations for the duration of the program in order to reconcile the projected hours.