

Policy for the Transition of Consumer Directed Personal Assistance Services into Managed Care

To minimize disruption and promote continuity for members receiving Consumer Directed Personal Assistance Services (CDPAS) the following is the policy for the transition of CDPAS into the Managed Care Organization (MCO) benefit package.

1. **Contracting During the Transition Period.** For the period November 1, 2012-October 31, 2013 (Transition Period), Health Plans must contract with Fiscal Intermediaries (FIs) that currently have a contract or memorandum of understanding (MOU) with a local social services district (LDSS) and currently provide fiscal intermediary services to the health plan's member(s). The rate of payment must be at least the Fee for Service rate of payment provided for in the contract or MOU between the FI and the LDSS. The MCO is not required to contract with FIs unwilling to accept the applicable Medicaid FFS rate as long as the MCO maintains an adequate network. To adequately meet the needs of members who are newly assessed and considered eligible to receive CDPAS, the MCO may also include in the MCO's network FIs that do not have a contract or MOU with the LDSS.
2. **Consumer Continuity of Care and Choice During the Transition Period.** The Department will provide a list of Fiscal Intermediaries (FIs) currently providing FI services to MCO's enrolled members. To promote and maintain consumer choice, members may, during the Transition Period, change to any FI in the county that has a contract with the MCO.

If the FI serves less than five (5) members in a county, MCOs may encourage the members to use an alternative FI to minimize the number of FIs an MCO must have under contract. However, during the transition period, the expectation is that a member is not required to transition to a different consumer directed personal assistant due to the lack of an MCO/FI contract. MCOs are prohibited from coercing or threatening the member or the worker to change FIs.

3. **Network Adequacy During the Transition Period.** An MCO that does not have members participating in CDPAS in a particular LDSS must have at least two (2) FI contracts per county where resources exist. This will ensure that members will have the option to participate in CDPAS.
4. **FI Contracting and Network Adequacy After the Transition Period.** Beginning November 1, 2013, MCOs may contract with two (2) FIs to cover members in multiple counties.

5. **Model FI Contract and Department of Health Review.** The DOH supports the use of the MCO/FI model contract developed by the parties. However, each MCO/FI may negotiate the terms of the model contract, except that no agreement may contain provisions that would be considered management functions under 10 N.Y.C.R.R. 98-1.11 or a provider agreement per 10 NYCRR 98-1 and the Provider Contract Guidelines without the express written approval of the department. The MCO must submit to the Department the name(s) of the contracted FIs for each county prior to November 1, 2012 and the fourth quarter of each year thereafter, or upon request of the Department.
6. **Applicability of Regulations.** MCOs are responsible for providing the scope of CDPAS benefit as specified in 18 NYCRR 505.28 (a), and (b). Members must receive a nursing and social assessment upon which the MCO will make a determination pertaining to whether the member requires skilled nursing tasks, home health aide services, or personal care services and whether the member is eligible for CDPAS consistent with 18 NYCRR 505.28 (c) and (d). The MCO will follow 505.28 (e) in the authorization of CDPAS. MCOs are responsible for assuring that the FIs are fulfilling their responsibilities consistent with 18 NYCRR 505.28 (i)(I)(i) – (v), (vii).
7. **Acknowledgement of the Roles and Responsibilities of the Consumer/Designated Representative.** Each member prior to receiving CDPAS must sign a consumer acknowledgement of the roles and responsibilities of the MCO and the member. The Department will provide a sample acknowledgment form with the minimum requirements for its use by the MCO.