



Department
of Health

Fiscal Intermediary Workgroup

Consumer Directed Personal Assistance Program

Meeting #2

June 26, 2019

Schedule of Fiscal Intermediary Workgroup Meetings

Meeting	Purpose	Date
Meeting# 1	<ul style="list-style-type: none"> Variation in FI Services FI Best Practices 	May 15 11 a.m. – 2 p.m.
Meeting #2	<ul style="list-style-type: none"> Best Practices Standardizing of FI Services, Clarifying Roles and Responsibilities Quality Indicators Consumer FI Transition Process and Protections 	June 26 11 a.m. – 2 p.m. Meeting Room 4 Empire State Plaza
Meeting #3	<ul style="list-style-type: none"> Quality and Reporting Requirements 	July 10 11 a.m. – 2 p.m. Empire State Plaza Room 6
Meeting #4	<ul style="list-style-type: none"> Workgroup recommendations for FI selection and contracting criteria 	August 7 11 a.m. – 2 p.m. Empire State Plaza Room 2 & 3

Topics for Today's Discussion

Review and discuss feedback from Workgroup “Homework”

- DOH received 12 documents which provided feedback on one more of the following topics:
 - ✓ Best Practices
 - ✓ Quality Indicators
 - ✓ Selection Criteria
 - ✓ Standardizing FI Services, Clarifying Roles and Responsibilities
 - ✓ Consumer FI Transition Process and Protections

Topics for Today's Discussion

- DOH is providing the Workgroup a copy of all feedback as submitted, but without attribution to the member or entity (unless the entity has made its submission public). One submission, which included PHI is not included in the copy.
 - The copy of the feedback is grouped into the topics identified on the previous slide, where applicable, but is presented as submitted (DOH did not amend the wording of the feedback received).
- To facilitate discussion, the following slides summarize the feedback received by the Workgroup Members

Best Practices

- Feedback received by DOH from the Workgroup on Best Practices generally fell into two broad categories:
 - Recommended Best Practices for delivering the nine FI requirements included in statute and regulation (See Appendix for nine FI requirements)
 - Recommended Best Practices that expand the scope of an FI or change the current requirements of CDPAP
- With respect to the question of whether differences in consumers' needs should impact how FI services are delivered – some said yes, while others said a “resounding” no

Best Practices For Delivering the Statutorily Required FI Services Submitted by Workgroup Members

- FIs should not establish practices or policies that go beyond what is required in the statute and the regulation
- FIs must maintain a local and regional presence
- Initial on site visit to CDPAP consumer
- Face-to-face orientation and training of both consumers and personal assistants (PAs) on their responsibilities, video also recommended
- Require PA and Consumer to acknowledge and attest to the FI their responsibilities
- Conduct periodic home visits (e.g., every six months)

Best Practices For Delivering the Statutorily Required FI Services Submitted by Workgroup Members

- Monthly communication with CDPAP consumer or representative to determine consumer continues to be able to self-direct/meet their roles and responsibilities
- Provide firewalls between FI and LHCSA that are part of the same organization
- FIs should minimize direct contact with PAs
- Require and maintain emergency contact list for CDPAP consumers, including Emergency Preparedness Plan
- Feedback recommended implementing and using various Electronic Visit Verification (EVV) solutions and reports. EVV is Federal Cures Act Requirement. State has not selected EVV solution, stakeholder engagement underway.

Best Practices For Delivering the Statutorily Required FI Services Submitted by Workgroup Members

- FIs should establish an organizational structure and sound policies and procedures in the following areas/departments: Executive Management, Contract Management, Corporate Compliance, Consumer Intake and Quality Assurance, Personal Assistant Enrollment, Timekeeping, Benefits, Accounting/Finance, Billing Department, Information Technology (may be outsourced). Note: responsibilities of Departments include best practices beyond FI statutory requirements.
- Establish designated FI contacts for LDSS and Plans, Consumers
- Close books on a monthly, quarterly and annual basis
- Conduct quarterly corporate compliance billing audit, quarterly review of PA files (OMIG audit protocol standards)

Best Practices For Delivering the Statutorily Required FI Services Submitted by the Workgroup

- Maintain/retain records for PAs no longer working
- Provide CDPAP consumer manual that is resource/reference guide of general information about CDPAP, roles and responsibilities (consumer, PA, FI, Plan/LDSS), PA wages, PA benefits, etc.
- Create a hiring packet audit tool
- Conduct annual risk assessment of the CDPAP
- FI staff should include CDPAP consumers and people with disabilities, especially at the management level and/or Board of Directors
- FIs should periodically undergo external Peer Review

Best Practices For Delivering the Statutorily Required FI Services Submitted by the Workgroup

- Managed Care Plans should reassess individuals identified by FI as not able to fulfill the responsibilities of CDPAP for “traditional” non-CDPAP services – not just reassign them to another FI
- Consumers should be given a list of all FIs a Plan Contracts with, including a summary of the wages and benefits and services the FI can offer. Prevents an FI from automatically being authorized for every consumer they refer to a Plan
- Managed care plans should provide consumers a copy of their care plan
- DOH should clearly define unacceptable practices regarding recruitment of assistants and clients and ensure effective mechanisms for reporting and enforcement
- FIs should refer clients to Maximus for plan selection information.
- Financial and statistical reporting for FIs should be consistent with other programs to facilitate cross-service comparison



Best Practices that Expand Scope of FI or Change CDPAP Requirements Submitted by the Workgroup

- Expand benefits offered to PAs (e.g., Health, Dental, Vision, Retirement)
- Offer to pay for the costs of health assessments and vaccines
- Establish anonymous hotline to report fraudulent behavior, formulate fraud, waste and abuse avoidance measures
- Provide Peer Counseling Mentors and a Peer Counseling Unit within the FI to provide education and support to individuals and their families
- Develop a formal and standardized peer mentoring training and approval process
- Allow FIs to provide training to PAs, offer or require the same training to CDPAP assistants that is required of non-CDPAP PAs

Best Practices that Expand Scope of FI or Change CDPAP Requirements Submitted by the Workgroup

- Offer Communication and Universal Precaution Training
- Maintain databases of Consumer and PAs demographic, generate reports from payroll vendor or billing data for departmental purposes or management review
- Develop outreach and education program to inform potential CDPAP consumers about the benefits of the Consumer Directed Program
- Provide PA recruitment assistance by maintaining a database of PAs that have valid medical exam and employment documents – Consumer and PA both sign acknowledgements that the FI is maintaining the tool as consumer support
- Create a Consumer Advisory Committee (consumers, PAs, FI staff and other stakeholders) in each region an FI serves

Best Practices that Expand Scope of FI or Change CDPAP Requirements Submitted by the Workgroup

- Offer optional (at request of the consumer) or require drug testing and background checks (including Medicaid exclusion list check) to be performed by the FI
 - *FIs should not require PAs to undergo criminal background checks*
- Ongoing monitoring of PAs including “sanction checks”
- Do not allow CDPAP billing while a member is waiting to be admitted to the hospital – billing should cease when consumer enters the hospital
- Require mandatory nurse visits by FI
- Provide transportation allowance for PAs that serve rural communities lacking public transportation

Best Practices that Expand Scope of FI or Change CDPAP Requirements Submitted by the Workgroup

- Allow/require FIs to pre-vet or screen PAs for CDPAP consumers
 - *FIs should not be involved in CDPAP hiring decisions, or require they hire from a list*
- Require CDPAP consumers to lock in work schedules
- Require standard number of PAs for CDPAP members – recommendations included:
 - By hours received (e.g., less than 40 hours per week - one PA and one back up; 40-80 hours per week – two PAs and one back up; 80 hours or more per week – three PAs and one back up)
 - Require two PAs for each consumer
- Consumers who require the appointment of a representative to carry out their duties are not self-directing and should not be permitted to use the program



Best Practices that Expand Scope of FI or Change CDPAP Requirements, Submitted by the Workgroup

- Require FIs to assist in obtaining needed doctor's orders
 - *FIs should not be responsible for obtaining doctor's orders*
- Limit the number of FIs to one per CDPAP consumer
- Limit overtime by imposing a 40 hour work week on family member caregivers, require consumers to maintain adequate workforce to limit the use of overtime, for which the FI is adequately reimbursed
- The Consumer should accept financial responsibility (rather than the FI via OMIG) for authorizing PA to work outside of the CDPAP authorization (excess hours, while in the hospital)

Best Practices that Expand Scope of FI or Change CDPAP Requirements, Submitted by the Workgroup

- Require MCOs to contract with and provide cases to all FIs operating in the same region as the MCO
- Re-examine standards to achieve efficiencies, e.g., consider eliminating TB tests and change annual reauthorization from annually to every six months

Recommendations for Standardization, Submitted by Workgroup

- Create a standard tool for assessing ability of consumer (or consumer representative) to fulfill its responsibilities under CDPAP
- Develop a standard form to be used by Plans and LDSS who make a referral to an FI
- Create standards for timeliness using industry averages and goals
- If consumer has not taken action to move their case forward in 30 days case should be redirected back to the Plan or LDSS for reassessment

Recommendations for Measuring Quality, Submitted by the Workgroup

- Use consumer, personal assistant and plan satisfaction surveys to measure quality. Quarterly telephonic survey also recommended
 - Overall Satisfaction with CDPAP
 - Satisfaction with PAs
 - Access and availability of PAs (and backups)
- Timely payroll processing
- Track and monitor complaints received – use information to make improvements
- Track number of consumers that have disenrolled from CDPAP and why
- Avoiding Preventable Hospitalizations and Emergency Room Visits

Recommendations for Measuring Quality, Submitted by the Workgroup

- Utilization of Services
- Non-routine Medical Care Prevention
- Compliance with Electronic Visit Verification
- Quality metrics that measure compliance and accountability to regulatory and statutory requirements
- Compliance with wage requirements
- Compliance with Plan of Care requirements
- Billed versus authorized hours (variance in either direction may indicate quality or compliance issue)

Recommendations for Measuring Quality, Submitted by the Workgroup

- Number of days for “onboarding” - days between receipt of authorization of services and the date services begin, for both PA and consumer
- Percent of medical appointments kept, percent of follow up appointments kept
- Average time consumer stays with FI
- Maintenance of stable housing by consumer
- DOH should analyze and compare key quality indicators (e.g., hospital use) to identify risk-adjusted variations in quality between members served in CDPAP and other programs
- Assess if differing FI practices, suggest differences in quality outcomes

Selection Criteria / Requirements for FIs Seeking to Contract with State Submitted by the Workgroup

- Many of the Workgroup recommendations reflect the FI selection criteria included in the statute:
 - ✓ The ability to appropriately serve individuals participating in the program;
 - ✓ A geographic distribution that ensures access in rural and underserved areas;
 - ✓ Demonstrated cultural and language competencies specific to the population of consumers and those of the available workforce;
 - ✓ Ability to provide timely consumer assistance;
 - ✓ Experience serving individuals with disabilities;

Selection Criteria / Requirements for FIs Seeking to Contract with State Submitted by the Workgroup

- ✓ The availability of consumer peer support; and
- ✓ Demonstrated compliance with all applicable federal and state laws and regulations, including wage and labor.
- The use of Best Practices recommended by the FI Workgroup in the delivery of FI services

Selection Criteria/Requirements for FIs Seeking to Contract with State, Submitted by the Workgroup

- FIs must be accessible by standards at least minimally equal to those required by the Americans with Disabilities Act (ADA) – Any FI not meeting this would be disqualified from consideration.
- Use Upstate and Downstate (NYC) regional criteria, depending on location of principal place of business
- Service Area – the larger the geographic area served the better, FIs willingness to provide services State-wide
- Local/regional presence (e.g., FI staff can get to consumer's home within one hour)
- Require service area expansions by FIs to be approved by DOH

Selection Criteria / Requirements for FIs Seeking to Contract with State Submitted by the Workgroup

- The experience of FI, the length of time FI has been operating
- Affiliation with a licensed health care provider
- The number of contracts the FI has with Managed Care Plans (the more contracts the better, evidence of high quality services are provided)
- The number of contracts with LDSS
- The number of consumers the FI serves at the time of application
- Demonstrate robust compliance program (aides working during hours billed, accurate timesheets)

Selection Criteria/Requirements for FIs Seeking to Contract with State, Submitted by the Workgroup

- Demonstrated compliance with wage requirements (minimum wage, wage parity)
- Trainings offered to aides and consumers
- Demonstrate strong operations – ability to submit clean claims, timely and responsive to member issues
- Demonstrated consumer satisfaction with FI by members and assistants
- Consider cultural and language competencies within mission and target population of each FI, but disability culture must be universal

Consumer FI Transition Process and Protections

- In the event that an FI decides to no longer provide FI services or to no longer serve a consumer's area, the statute (section 365-f(4)(d) of the Social Services Law) includes the following notice and transition requirements to help ensure that CDPAP consumers retain the same aide and FI services are transitioned to the a new FI
 - FIs ceasing operation or changing their service area must provide 45 calendar day advance written notice to consumers (or their representatives), PAs, managed care plans/LDSS and DOH;
 - Within five business days of receiving the notice above, managed care plans/LDSS must acknowledge receipt of such notice and provide CDPAP consumers a list of other FIs operating in the same county or managed care plan network;

Consumer FI Transition Process and Protections

- Upon request and consent by the CDPAP consumers, FIs must promptly transfer all records relating to the individuals health, care authorizations, and personnel documents to the FI or personal care or home health care provider chosen by the consumer and assume all liability for omissions and errors in such records
- Requires Plans/LDSS to supervise the transition of services and transfer of records and maintain provision of the personal assistants chosen by the CDPAP consumer.
- The statute also prohibits FIs from taking any action to prevent a PA from moving to a new FI of the consumers choice, nor require the consumer or PA to switch to a personal care or home health program

Workgroup Recommendations for Transition to New FI

- 45 day notice requirement helpful – State should consider lengthening the timeframe for some FIs if needed
- Require same information be provided for a transition as for new referral
- Preserve requirement that it is the consumer's right to choose a new FI
- During transition period, consider waiving contracting process with LDSS (take months, even years) and require plans to open their provider networks to FIs that are expanding to their service area in preparation for upcoming procurement process
- Provide training for consumers on recording time and attendance

Appendix:
Fiscal Intermediary Service
Requirements

Fiscal Intermediary Statutory and Regulatory Service Requirements

FI Service requirements are defined in Statute (Section 365-f Social Services Law) and Regulation (18 NYCRR Section 505.28(i))

- 1) Process wages and benefits for each CDPAP assistant, including establishing the amount of wages; processing all income tax and other required wage withholdings; and complying with worker's compensation, disability and unemployment insurance requirements;
- 2) Ensure the health status of each CDPAP assistant is assessed (per 10 NYCRR § 766.11(c) and (d)) prior to providing service delivery or any successor regulation;
- 3) Maintain personnel records for each CDPAP assistant, including time records and other documentation needed for wages and benefit processing and a copy of the medical documentation required by 2) above;
- 4) Maintain records of service authorizations and reauthorizations;

Fiscal Intermediary Statutory and Regulatory Service Requirements

- 5) Monitor the consumer's (or if applicable, the consumer's designated representative's) continuing ability to fulfill the consumer's responsibilities under CDPAP and promptly notify the authorizing entity of any circumstance that may affect the consumer's (or if applicable, the consumer's designated representative's) ability to fulfill those responsibilities;
- 6) Comply with DOH regulations (18 NYCRR § 504.3) that specify the responsibilities of providers enrolled in Medicaid;
- 7) Enter into a contract with the social services district [or managed care plan] for the provision of fiscal intermediary services;
- 8) Enter into a DOH approved memorandum of understanding with the consumer that describes the parties' responsibilities under CDPAP; and
- 9) ***Added by 2019-20 Enacted Budget.*** Other related responsibilities which may include, as determined by DOH, assisting consumers to perform the consumers' responsibilities and DOH regulations in a manner that does not infringe upon the consumer's responsibilities and self-direction