

MEMORANDUM

A.7304 (Gottfried)/S.6640 (May)

AN ACT to repeal section 3605-c of the public health law requiring authorization for a licensed home care services agency to enroll as a provider under the medical assistance program

Purpose of bill: To repeal Section 3605-c of the Public Health Law and restore the right of a qualified licensed home care service agency (LHCSA) to serve Medicaid enrollees.

LeadingAge New York supports the repeal of Section 3605-c of the Public Health Law which requires Licensed Home Care Services Agencies (LHCSAs) in the State to undergo a Request for Offers (RFO) process to provide Medicaid home care services. This requirement was enacted as part of the 2020-21 State Budget with the intent to consolidate home care services agencies across the state and curb the growth of Medicaid home care services. LeadingAge New York believes the RFO process would cause significant disruption to home care providers across the state, including their patients, caregivers and families. It could also limit access to Medicaid home care services at a time when elderly and disabled populations are rapidly growing and require support to age in place at home and in their communities.

The LHCSA RFO requirement will create an arbitrary cap on the number of home care agencies available to serve Medicaid beneficiaries at a time when the demand for home care is at its greatest and continues to grow due to demographic shifts. This RFO requirement, if implemented, raises the risk of limiting the agencies available to Medicaid beneficiaries based on standards and processes that are unclear to the public and providers. In addition, the Department is simultaneously implementing new clinical and financial eligibility requirements to curb unnecessary utilization of Medicaid-funded personal care services. Given these measures, it is unnecessary to implement the LHCSA RFO requirement.

The State implemented a similar RFO process to consolidate and curb growth in the Consumer Directed Program for Personal Assistance. Awards were severely limited, made little sense to providers and consumers, and appeared to exclude qualified and reputable FIs. Even with additional selections through reopening of the process as required in this year's budget, the FI selection process threatens significant disruption of services to the vulnerable consumers this program serves.

There are well established requirements and procedures set forth in law and regulation that already serve to set standards for LHCSAs: licensure, operational and financial requirements under public health, social services (Medicaid) and labor laws; annual LHCSA cost and statistical reporting; surveillance; and contracting requirements that establish quality expectations.

The Department of Health has various controls and tools it can utilize to ensure appropriate licensure and operation of home care agencies and to exclude from the Medicaid program agencies that fail to meet standards or to comply with fraud and abuse provisions. It should utilize those tools to provide oversight of home care agencies participating in the Medicaid program.

More individuals than ever are seeking care in their homes and communities. Access to care is critical for not only home care patients, but their families, and caregivers. A reasoned and thoughtful approach to the scale and growth of provider agencies, access to quality home care, and support of home care infrastructure should be the foundation of the Department's policy priorities.

LeadingAge New York urges support for this legislation.

LeadingAge New York represents over 400 not-for-profit and public long term care providers, including nursing homes, home care agencies, senior housing, retirement communities, assisted living, adult care facilities, adult day health care and managed long term care.