

Engesser v. McDonald Preliminary Injunction FAQs

(April 12, 2025)

What is Engesser v. McDonald?

This is a lawsuit filed by CDPAP Consumers in New York against the Department of Health on March 26, 2025. The lawsuit claims that CDPAP consumers would lose CDPAP services without receiving notices telling them that their services would end, and without the opportunity to request fair hearings.

The lawsuit was filed as a class action. This means that CDPAP consumers and associations listed in the court papers are bringing the case on behalf of all the CDPAP consumers in New York who were receiving CDPAP services in March 2025 and are in danger of losing services without notice during the CDPAP transition.

What is the status of the case?

On Thursday April 10, 2025, Judge Block of the U.S. District Court for the Eastern District of New York signed a Preliminary Injunction ["PI"]. The injunction will last until June 6, 2025, unless it is extended to a later date by the Court.

What does the Preliminary Injunction do?

The Preliminary Injunction allows **some** CDPAP consumers to have their Personal Assistants employed by their prior Fiscal Intermediary, rather than by PPL, until everyone can complete registration with PLL. All CDPAP consumers must be enrolled with PPL by May 15, and all Personal Assistants must be fully registered and onboarded with PPL by June 6.

How do I know whether my Personal Assistant can still be employed by my prior Fiscal Intermediary?

The PI divides Personal Assistants into three separate categories, based on whether the consumer and their Personal Assistants have been able to complete PPL registration.

For each category, a consumer is considered "fully registered with PPL" if they or their designated representatives have signed the Memorandum of Understanding with PPL.

The three categories are:

- A. PAs who are themselves fully onboarded with PPL, and whose Consumers are fully registered with PPL**
- B. PAs who are NOT fully onboarded with PPL, even though their Consumers are fully registered with PPL**
- C. PAs working for Consumers who are NOT fully registered with PPL**

Category A: Consumers who are fully registered with PPL & any of their PAs who are fully onboarded with PPL-

- These consumers must receive services from PPL.
- PAs will be paid by PPL retroactive to April 1, 2025 or the last day the PA was paid by their prior FI, whichever is later. PPL must pay these PAs on time.
- PAs in this category may submit timesheets through the Time4Care app, the “telephony” system, or [this paper timesheet](#) through Saturday April 26, 2025. For time recording instructions, see [this PPL document](#) (exceptions discussed on page 4).
 - After April 26, 2025, PAs must use the Time4Care app unless they request and are given an exception by PPL to submit paper timesheets.
- If the consumer is fully registered but PPL does not have their authorization, the State will prioritize fixing these cases. If you believe your authorization is missing, please email the N.Y. Department of Health CDPAP transition team at StatewideFI@health.ny.gov. Please write “MISSING AUTHORIZATION” in the subject line of your email.

Categories B and C: Consumers can request that any of their PAs who are NOT registered with PPL be paid by their prior Fiscal Intermediary (FI) on a temporary basis.

- **The consumer can request that their PAs who are not registered with PPL be paid on a temporary basis by their prior Fiscal Intermediary (FI), as long as:**
 - The prior FI is able to provide the service and to pay the PAs on time;
 - The prior FI agrees not to make misrepresentations about the ongoing transition process.
 - The MLTC/managed care plan or LDSS can switch the consumer’s authorization in sufficient time for the prior FI to pay the PA within 7 days.
- **WHO to contact to request services from the prior FI:** Consumers or their Designated Representatives can contact the entity that authorizes their CDPAP

services. Most consumers should call their MLTC or other managed care plan. Consumers who are not enrolled in a plan receive CDPAP through their county LDSS should call that LDSS, such as HRA for New York City.

- **HOW to request services from the prior FI:** Consumers or Designated Representatives can contact their plans or LDSS by phone, email, or "any reasonable means." See this guidance from the Department of Health for more information. Plans and LDSS may also reach out to Consumers to discuss this.
 - **If the Consumer is not yet enrolled with PPL, the Department of Health recommends that they say:** "I am a CDPAP consumer who has not completed registration with PPL. I would like to stay with my current FI, [name of current FI], until I complete the transition to PPL. I understand that I must complete registration with PPL by May 15, 2025 and that all my personal assistants must be fully onboarded with PPL by June 6, 2025."
 - **If the Consumer is enrolled, but their PA is not yet registered with PPL, the Department of Health recommends that they say:** "I am a CDPAP consumer who is fully registered with PPL; however, one or more of my personal assistants are not fully onboarded with PPL. I would like my personal assistants who are not fully onboarded with PPL to continue to be paid by my former FI, [name of former FI], until they are fully onboarded with PPL. I understand that all my personal assistants must be fully onboarded with PPL by June 6, 2025."
- **HOW LONG will the prior FI pay the PA?** Once a PA becomes fully onboarded with PPL, they will switch to being paid by PPL. PPL must call or email the Consumer or their Designated Representative and the PA to tell them that the PA is now employed by PPL and when the PA will be paid, and to explain how to submit and approve time sheets for payment.
- **What if the prior FI has closed or cannot serve the Consumer and PAs for other reasons?** The consumer and PA will be directed to the **Expedited PPL Onboarding Mechanism** (see below).
- **What if one Consumer has some PAs who are fully onboarded with PPL (Category A) and some PAs who are not yet onboarded (Category B)?** Any PAs who are fully onboarded will be paid by PPL. The Consumer can choose to request that PAs who are not onboarded continue to be paid by the prior Fiscal Intermediary while those PAs transition to PPL, until June 6th.

What is the Expedited PPL Onboarding Mechanism?

The Expedited PPL Onboarding Mechanism is a process to help Consumers and PAs quickly complete their PPL registrations. The process can include intensive outreach by the Department of Health, in-home visits by facilitators and/or managed care plans, and in-person meetings with PPL in community offices. MLTC and other managed care plans will have access to the PPL portal to assist consumers and PAs in registration.

Where can I get help?

1. Contact **PPL** at 1-833-247-5346.
2. Contact the Department of Health CDPAP Transition hotline at StatewideFI@health.ny.gov. The Department of Health will also have a phone hotline available starting on Monday, April 14. We will post that number as soon as we receive it.
3. PAs who have questions or problems with their pay can contact the **Division of Labor Standards at the NYS Department of Labor at 888-469-7365**. See <https://dol.ny.gov/unpaidwithheld-wages-and-wage-supplements>
4. Report problems getting care from PPL or your prior FI to the NYLAG Engesser hotline at 212-946-0359 or CDPAPlawsuit@nylag.org. NYLAG is returning calls as fast as we can, but we are receiving more calls than we can handle on a daily basis. We are passing common concerns on to the Department of Health, and trying to triage emergency situations.