Testimony of the
New York Legal Assistance Group

SENATE STANDING COMMITTEE ON HEALTH
SENATE STANDING COMMITTEE ON INVESTIGATIONS AND GOVERNMENT OPERATIONS

TOPIC: Transition to Single Fiscal Intermediary for CDPAP Program - PPL

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New York Legal Assistance Group (NYLAG) uses the power of the law to help New Yorkers experiencing poverty or in crisis combat economic, racial, and social injustice. We address emerging and urgent needs with comprehensive, free civil legal services, financial empowerment, impact litigation, policy advocacy, and community partnerships. We aim to disrupt systemic racism by serving clients, whose legal and financial crises are often rooted in racial inequality.
NYLAG's staff of 400 impacted the lives of
130,000 New Yorkers last year.

Thank you for the opportunity to testify today. I wish to clarify that I am not part of the NYLAG litigation team handling the *Engesser* lawsuit and am not authorized to speak about the lawsuit or issues raised in that lawsuit regarding the initial transition to PPL in April 2025. For information about the Engesser lawsuit please see https://nylag.org/engesser/.

My remarks focus on the ongoing – and likely permanent - disruption of home care services for consumers as a result of this transition, the need for monitoring and transparency, and recommendations for improving access.

DOH promised no reduction in access to CDPAP services for consumers with this transition. However, CDPAP services are in fact significantly reduced.

1. **Ongoing Consumer Loss of Navigation Support:** Many of the former Fiscal Intermediaries (FI), particularly the Independent Living Centers and other non-profits focused on serving the disabled – provided extensive support for consumers that PPL simply does not provide. The FIs had staff – not just a call center – to help consumers and workers navigate and troubleshoot onboarding, timekeeping, and payment problems to ensure workers were timely paid. They provided training and coaching for consumers in recruiting, training, and supervising aides. Since the former FIs were based in the community, their staff often spoke languages common locally.
    - Others will testify how PPL's timekeeping and payment systems are impossible to use and cause repeated serious payment errors, and that call center staff are hard to reach and cannot solve problems. Every week's payroll is extremely stressful for consumers, with the risk of losing long-time PAs looming if they are not paid correctly and on time.
    - Replacing the community-based FI's with the anonymous online PPL system is akin to the Trump Administration's threat to close local Social Security offices and force all beneficiaries to navigate the online SSA system or call center. The personal touch of meeting with staff in a community-based office simply cannot be replaced by a portal or call center.

- **RECOMMENDATION:** NYLAG supports S7954 (Rivera) / A8355 (Paulin) that would reinstate Independent Living Centers as FIs. We recommend that the bill be revised to require -- and not merely allow -- the Governor to reinstate other long-time FIs who are "facilitators" for PPL.

2. **Unlawful termination of services when a plan or local Medicaid office fails to renew an annual CDPAP authorization on time.** CDPAP services must be reassessed and reauthorized every year, by the Medicaid managed care or MLTC plan for their members or by the local Dept. of Social Services (LDSS) for others. Prior to April 1, 2025, if a plan or DSS fell behind in doing these annual "reauthorizations," they provided assurances to the FIs that the reauthorizations would be done retroactively. Based on these assurances, the FIs continued paying the PAs.

   PPL, however, will not pay PAs unless a current authorization is on file – resulting in UNLAWFUL DISCONTINUANCE of CDPAP services when an authorization lapses. In the initial April 1, 2025 launch there was a frantic rush by plans and LDSS to transmit over 220,000 authorizations to PPL, using archaic Medicaid data systems that, having not been tested for this mass transition, did not properly function. PPL in turn takes up to four business days to process authorizations from Managed Care Plans and six business days from LDSS using eMedNY). *See, infra, fn.1.* As a result, many PAs were not paid – meaning the consumer's service illegally stopped without notice.

   This problem continues. Every month thousands of authorizations expire and plans and LDSS again rush the new "auths" to PPL – many not meeting the deadline and disrupting care. NYLAG fielded anxious calls from dozens of NYC consumers among over 1200 whose authorizations from HRA expired June 30th, even though HRA had staff work overtime to extend these authorizations. And when the extension is made at literally the last minute, the stress for consumers is intolerable as they do not know if services will stop and they are helpless to do anything about it.

   The failure to renew an expiring CDPAP authorization – allowing it to lapse and preventing the PAs from getting paid -- is a violation of consumer's due process rights. This is in effect a discontinuance of CDPAP services without notice and hearing rights – the most basic requirements of due process.

On August 1, 2025, DOH issued guidance to LDSS and MCOs regarding their obligation to timely upload reuthorizations to PPL systems, 7 days before the current authorization expires for MCOs and 10 days in advance for LDSS.[1] A separate directive states that if the district "has made a decision to reduce or discontinue CDPAP services," the consumer may request a hearing and is entitled to "Aid Continuing" so that the CDPAP services continue through the hearing process. GIS 25 MA/07 - *Consumer Directed Personal Assistance Program Aid to Continue* (8/1/25). However, this directive only applies where the LDSS "decided" to discontinue services, not when an authorization lapses because the DSS failed to renew it on time.

While these directives were welcome as they recognize that failure to provide timely authorizations could result in a gap in services for consumers and disruption in pay for workers, they do not go far enough. First, the directives fail to acknowledge that consumers' due process rights entitle them to recourse with advance written notice, aid continuing, and fair hearing rights if their LDSS or MCO fails to timely provide an authorization to PPL. Second, these missives state that continued failure to meet the deadlines could result in withholds of LDSS administrative payments or enforcement or regulatory action for MCOs. Yet, we are unaware of how DOH will track "continued failure" or make these consequences public. And the reality is that the low staffing levels of HRA and other local districts make the new deadlines unrealistic, and the same service disruptions will likely continue every month until the program is fixed.

3. **PPL's health insurance benefits for workers are deficient and a stain on New Yorker's reputation as a national leader in providing affordable health care for low-income, working people.** Contrary to the Governor's claim, many former FIs *DID* provide affordable and comprehensive health insurance for PAs, and where the FI did not, the PA could access the affordable NYS Essential Plan. As the Fiscal Policy Institute has documented, PPL's two fake health plans enrich PPL while providing limited to no coverage for workers.

    A. PPL's *Anthem SecureHealth* optional health plan for fulltime workers (130 hours/month or 30 hours/week) -- PPL purposely set the monthly

[1] See GIS 25 MA/08 – *CDPAP Service Authorization Renewal Timelines* (8/1/2025); SDOH Letter to MLTC Plans (8/1/2025).

premium at $212 – just meeting the definition of "affordable" under the Affordable Care Act, allowing PPL to avoid tax penalties. The plan is designed to fit into a loophole under the ACA, which considers the plan affordable even though the **deductible is $6,350** for a single person and $22,700 for a family. No PA earning $32,000 can afford these sky-high costs.

A PA working 40 hours/week is financially eligible for the NY Essential Plan, which provides comprehensive free coverage for those with incomes under 250% Federal Poverty Line. (Single income limit is $39,000). But as the State admits,[2] merely being *offered* the PPL *SecureHealth* plan disqualifies workers from the Essential Plan and from premium subsidies for Qualified Health Plans through the Affordable Care Act -- despite their low income -- *even if they do not enroll in the PPL plan.*

The *SecureHealth* plan does not prevent a PA from qualifying for Medicaid, but most full-time PAs earn too much for Medicaid – unless they support a spouse and children.

A PA may also lose coverage under a spouse's job or their own retiree coverage – just because this *SecureHealth* high-deductible option is available, but this varies among employment plans.

B. In the **downstate Wage Parity area (NYC, Long Island and Westchester)**, all PAs both part-time and full-time are automatically enrolled in the **Anthem *BasicWellness* plan with a FlexCard**, which covers *only* a few preventive services. PPL calls this coverage "free," but workers' pay is reduced by $0.87/hour in NYC or $1.03 in Westchester and Long Island – diverting wage parity owed to the worker to fund this plan. DOH's own FAQ admits that this plan is "not comprehensive health insurance coverage because it only covers services the plan considers preventive. For example, if you injure yourself and make an appointment to see a

[2] NYS Dept. of Health, FAQ: CDPAP Caregiver Healthcare Benefit Options Offered by PPL, available at http://www.health.ny.gov/health_care/medicaid/program/longterm/cdpap/docs/sfi_worker_insurance_faq.pdf (updated April 25, 2025).

provider, your primary care visit to treat the injury is not covered by the PPL Anthem BasicWellness Plan." See fn 2.

Though this is just a wellness plan and not a true health insurance plan, this plan can interfere with a PA's other health coverage. If the PA is covered as a dependent on their spouse's employer coverage, for example, the spouse's policy typically requires the PA to use their own work insurance as primary coverage. Here, that means the PPL wellness plan must be primary, but since it covers almost nothing, this could lead to coverage denials by the worker's other insurance due to problems with provider networks and billing.

PPL is allowing PAs who have Medicare to opt out of the BasicWellness Plan (after NYLAG pointed out this is required by federal Medicare regulations), but these PAs are not receiving the Wage Parity supplement that PPL is withholding from all employees' wages to pay for this plan.

RECOMMENDATION: PPL should be required to stop contracting with Leading Edge, which has a well-documented history of fraud and unethical practices.[3] PPL should be required to either: (1) provide health insurance equivalent in cost and benefits to the NY Essential Plan, or (2) provide benefits that do not disqualify a PA from the NY Essential Plan. Consumers are losing PAs who are forced to quit because they need health insurance – whether through their employer or through the NYS Essential Plan. Recruiting new PAs has always been difficult because of low wages, but PPL's offerings that sabotage the PA from qualifying for the Essential Plan make it worse.

[3]New York Focus 5 Key Takeaways From Our Investigation Into Health Insurer Leading Edge Administrators (June 13, 2025**);** New York Focus 'I Thought I Was In-Network': The Insurance Scheme That Could Leave New Yorkers With Mountains of Debt (June 12, 2025); Queens Daily Eagle PPL's Health Insurance is a Raw Deal for Workers -- The State Must Change That (Op Ed by Rebecca Antar, The Legal Aid Society and Michael Kinnucan, Fiscal Policy Institute)(April 29, 2025); NY FOCUS Home Health Aides Are Getting New Insurance Coverage — From a Company With a History of Cutting It Off (April 28, 2025)

4. Monitoring, Oversight and Transparency are Needed for Accountability

Since consumers no longer have any choice of FI, they cannot switch to a different FI when they are dissatisfied with PPL. The State must ramp up its monitoring and oversight of PPL and improve transparency with public release of data.

A. **The NYS Comptroller should be charged with conducting a full investigation of PPL's finances and payroll operations**, including their security and anti-fraud measures and their contractual relationship with Leading Edge.

B. The Dept. of Health should be directed to track problems reported to both PPL and to the DOH CDPAP Complaint Hotline, length of time for resolution, and recurring nature of problems. The state must continue to staff its hotline and collect data from PPL on problems reported to its call center. Data on call trends should be made public.

C. **DOH Should be Directed to Assess the Impact of PPL Transition on the Worker Shortage** – If 77,000 consumers have switched from CDPAP to traditional personal care, that potentially increases the already dire worker shortage in personal care. DOH should regularly survey CDPAP consumers to track ability to recruit and retain PAs, and barriers encountered in recruitment and retention. DOH should also track CDPAP consumers who are hospitalized or admitted to a nursing home, to determine whether payment problems and other issues with PPL contributed to these events.

D. **NYLAG supports the MLTC DATA TRANSPARENCY ACT - S707/A700** (May/Gonzalez-Rojas) that, in part, would adopt evidence-based measures to track staffing capacity that were recommended by CMS and make this data public.[4] New York has never instituted measures to track timely access to home care services, which are needed for the State as well as the public to hold plans accountable. Measures recommended by CMS can include:

[4] CMS, Promoting Access in Medicaid and CHIP Managed Care: Managed Long Term Services and Supports Access Monitoring Toolkit, June 2022 ['CMS LTSS Toolkit"] available at https://www.medicaid.gov/medicaid/managed-care/downloads/mltss-access-toolkit.pdf; see also http://www.medicaid.gov/medicaid/managed-care/guidance/medicaid-and-chip-managed-care-monitoring-and-oversight-initiative/index.html.

- Setting maximum wait time for home care services to be initiated after authorization (Texas requires a plan to initiate services within 7 days for 90% of members authorized for PCS). Id.;
- Requiring plans to submit a Monthly Unstaffed Case Report or a Late & Missed Visit report. CMS LTSS Toolkit at p. 36.
- Electronic Visit Verification can also be used to track timely delivery of services, which the plan would aggregate by region and report to DOH. Id.
- Require plans to maintain Utilization Reports to track members who have been without home care for various specified periods of time, with an explanation of why the services were not provided and when they are expected to begin (see CMS Toolkit pp. 35).

5. DOH Must Convene a Stakeholder Workgroup to Allow Meaningful Input on the future of CDPAP.

For a consumer-directed program, consumers have been left out of the entire development of the single FI and the transition. Going forward, consumers, PAs and other stakeholders must have the opportunity for meaningful input on the future of CDPAP. CDPAP is the primary service by which NYS delivers services under the Community First Choice Option (CFCO), under which NYS has drawn down nearly $4 billion in an enhanced six percent federal match since 2016, and consumer involvement is an important part of the CFCO program.

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