

# Medicaid Consumer Directed Personal Assistance Program (CDPAP) in New York State - Big Changes Coming 2025!

For updates about the transition to the new NYS "Single Fiscal Intermediary" (FI) and NYLAG's lawsuit challenging it - please see

- See [this article](#) for latest news and links to [press coverage](#). See more about [litigation and advocacy](#) here.
- On March 10, 2025 the [Albany Times-Union](#) in an editorial warned of a "looming disaster" because "it's hard to imagine that the state and PPL can process in a few weeks half again as many people as it took two months to enroll."

"But this uncertainty is no way to treat either the vulnerable clients who depend on this program for their daily needs â for some, even their survival â or the aides who rely on the work for income. The Hochul administration needs to lay out its plan to get full registration, and its backup plan if it fails to achieve it. Because one thing is certain: It will own either the success, or the failure."

*Editorial: CDPAP transition is a looming care crisis: What will happen if thousands of people who depend on home care aides miss an imminent deadline? The state has yet to say.*  
Albany Times Union, March 10, 2025 - view [here](#).

- Download [NYLAG PowerPoint](#) about the Single FI Transition - dated March 10, 2025, [here](#).

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## 1. What is CDPAP?

The **Consumer Directed Personal Assistance Program (CDPAP)** is a statewide Medicaid program that provides an alternative way of receiving home care services, where the consumer has more control over who provides their care and how it is provided. Rather than assigning a home care vendor or agency that controls selection, training, and scheduling of aides, the "consumer" or the family member, friend or guardian directing his/her care performs all these functions usually done by a vendor. All counties, all mainstream Managed Care and Managed Long Term Care plans are required to have a CDPAP program. To be eligible, one must be eligible for services provided by a certified home health agency AIDS home care program, or personal care (home attendant) and meet other eligibility criteria here.

- **CDPAP Aides may Perform "SKILLED" TASKS** - unlike regular personal care aides

Another special benefit of CDPAP is that CDPAP aides may perform "skilled" care that otherwise may only be performed by a nurse - suctioning tracheostomies, insulin injections, administration of oxygen or medications where the consumer cannot self-administer. See N.Y. Educ. Law Â§ 6908(1)(a) . Tasks that could not otherwise be performed by home health aides or personal care aides are indicated in the scope of tasks for personal care and home health aides.

- Unlike traditional Personal Care, parents of an adult child may be paid as a CDPAP personal assistant. Also, adults may work as the personal assistant for their parent. See more here about who may be hired as the PA (personal assistant).

## 2. March 28, 2025 Deadline for Consumers and Personal Assistants to

## Switch to a "Single" Fiscal Intermediary - PPL

- **What is a Fiscal Intermediary?** -- A CDPAP aide (called a "personal assistant" or "PA") is not an employee of a home care agency, but is instead an independent contractor, who is paid wages and benefits by a "fiscal intermediary" or "FI." An FI contracts with either the county or a managed care or MLTC plan to provide CDPAP services authorized by that county or managed care plan. It is the fiscal intermediary that pays the aide wages and benefits, based on the plan of care developed by the county or managed care plan..
- Until March 2025, there have been about 600 - 700 FIs in NYS. Partial list --members of the trade group CDPAANYs - see [online list statewide](#) and [HRA's list](#). However, the **NYS** FY 2024-25 budget enacted in April 2024 requires all MLTC plans and managed care plans and local Medicaid agencies to use a single FI -- which will replace over 600 FIs currently [see below changes coming in 2025](#) that will close most FI's down.
- **WHAT STARTED January 6, 2025 ? - The new single Fiscal Intermediary (FI) Public Partnerships LLC ("PPL") selected by NYS opened its customer service line to begin taking requests from 240,000 CDPAP recipients to transfer their CDPAP services to this new FI -- will replace all 600+ FI's that currently provide CDPAP in NYS.**
- What is **Public Partnerships LLC (PPL)** and why was it chosen? The NYS budget law said that the new single FI must have served as a single Statewide FI in *another state*. This meant no existing FI in NYS could qualify.
  - ◆ On September 30, 2024, [Gov. Hochul announced](#) that NYS awarded the single FI contract to PPL, a private company backed by private equity. See [Spectrum news coverage](#).
  - ◆ PPL did not previously provide CDPAP services in NYS, though it did have at least one other contract with NYS DOH unrelated to CDPAP (administering the housing subsidy for the TBI waiver). PPL has run CDPAP programs in some other states but none as big as NYS's. Advocates have raised concerns about its capacity to handle the huge job of transitioning 240,000 consumers and 400,000 workers.
  - ◆ Advocates from Pennsylvania and other states reported serious problems when PPL became the single FI in those states, including disruptions in care and delays in payment. 20,000 [Pennsylvania](#) home care [workers went unpaid](#), costing the state \$7 million annually. The Commonwealth of Pennsylvania's [audit of the transition to PPL in 2013](#) identified numerous serious problems with the roll-out that could have been prevented.
- **The first days of the PPL hotline already show serious problems.** Watch [this video of calls to the helpline](#) during the first week starting Jan. 6, 2025. VIDEO ([Instagram](#), [X](#), [Facebook](#)) for a summary of what happened on January 6. [Alt text can be found here](#):
  - ◆ [Over 1,000 callers hit new Medicaid home care transition hotline](#) - Kate LIsa, NYS of Politics and Spectrum News recording Jan. 7, 2025

- ◆ NYS Health Commissioner recorded a "Public Services Announcement" that was aired on TV defending the rollout and transition to PPL - see DOH Press Release announcing the PSA (1/8/25)
- PPL, the new single FI, will subcontract with **37 CDPAP Facilitators** -- current FIs that will continue as subcontractors -- NOT to provide full FI services but solely to help consumers and PA's transition to the new FI. People who now receive CDPAP from one of the 31 CDPAP Facilitators must still transition to PPL.
- See list here of the Facilitators with the counties they cover, languages spoken, and contact information.
- ◆ 11 Independent Living Centers are among the 31 CDPAP Facilitators, as announced in a press release by Gov. Hochul Jan. 7, 2025
- ◆ The 31 CDPAP facilitators are required to send this notice -- FI to Consumer Template -- to all of their consumers telling they must register with and transition to PPL - and offering to help with the transition.

## INFORMATION ON THE CHANGES to A SINGLE FI

- ◆ **NYS Dept. of Health WEBPAGE on the SINGLE FI**  
 - [https://www.health.ny.gov/health\\_care/medicaid/redesign/mrt90/cdpas.htm](https://www.health.ny.gov/health_care/medicaid/redesign/mrt90/cdpas.htm)
  - ◇ **POLICIES POSTED on that webpage as of Feb. 5, 2025 include:**
  - ◇ Notice to FIs on Notice of Closure
  - ◇ CDPAP Statewide Fiscal Intermediary Transition Policy for Current Fiscal Intermediaries
  - ◇ MLTC Policy 24.04
  - ◇ CDPAP Statewide Fiscal Intermediary Transition Policy for Medicaid Managed Care Plans
  - ◇ Administrative Directive 24 OHIP/ADM-01
  - ◇ NOTICES TO CONSUMERS -
    - The 31 Facilitators have or will send this notice
- ◆ **CDPAANYS FAQ on SINGLE FI**  
 - <https://cdpaanys.org/consumer-resource-center/frequently-asked-questions-on-the-s>  
 (Consumer Directed Personal Assistance Association of NYS)
- ◆ **PPL WEBSITE** - has outreach timeline, FAQ, list of 31 CDPAP Facilitators
- ◆ Life Happens Radio Podcast - Lou Pierro interviews Bryan O'Malley, Executive Director of CDPAANYS about the new changes (Dec. 2024)
- **ADVOCACY and LITIGATION**
  - ◆ **Many lawsuits** have been filed opposing the changes, but as of yet there is no statewide injunction stopping it from going forward. See for example Times Union report here, Spectrum report here, and more in press described below.
  - ◇ On Jan. 27, 2025, a state court in Nassau County issued a Temporary

Restraining Order in "Caring Professionals & CDPAANYS vs. NYS DOH and PPL" that prohibits the State from enforcing directives of Dec. 6 and Dec. 23, 2024 requiring all FIs to turn over Protected Health Information to the new single FI PPL about all of their employees and consumer enrollees by Jan. 15th. The State's memo imposes severe sanctions on the FIs that failed to turn over info. The injunction is based on violations of HIPPA. The motion is scheduled for Court on March 4, 2025. **Note that the injunction only protects the FI's who are plaintiffs in the lawsuit - Caring Professionals, Inc. and members of the trade organization CDPAANYS.** Download court filings [here](#).

◇ On Jan. 8, 2025, a state court issued a Temporary Restraining Order that stems from a petition filed Monday Jan. 6th by All-American Homecare, a Rochester-based fiscal intermediary, which accuses the Health Department of violating health privacy laws by requiring companies like theirs to hand over data on the CDPAP consumers they serve and the personal assistants who care for them.

- This TRO was lifted less than a week after it was issued.
- This TRO was cited in a separate lawsuit by a different FI, in support of a request for a similar restraining order.

- ◆ Feb. 21, 2025 - Trade groups representing MLTC plans and home care agencies wrote to the NYS Medicaid Director expressing concerns about potential for member disruption due to PPL's operational issues, data and system shortcomings, and financial capacity to pay workers.
- ◆ Jan. 8, 2025 -the Medicaid Matters NY Coalition sent a letter to Governor Hochul to urge a delay of the transition to a single statewide fiscal intermediary for CDPAP in light of serious problems with implementation and the threat of disruption of services.
- ◆ Jan. 7, 2025 - Trade organizations representing managed care plans and home care agencies in NYS sent a letter to Amir Bassiri, the NYS Medicaid Director, protesting demands by PPL for prepayments at higher rates than they currently pay for CDPAP. If they do not contract with PPL by Feb. 1, the organizations could face penalties, including new enrollment suspension, the Health Department recently warned.
- The final NYS FY214-25 BUDGET -rejected some other proposed CDPAP changes described HERE - but did allow DOH to require a training program for CDPAP personal assistants, which disability advocates oppose as undermining the entire consumer-directed goal of the program.

### 3. ELIGIBILITY FOR CDPAP - Stricter Rules Coming in 2025

#### Eligibility Criteria - 18 NYCRR Sec. 505.28(c)

1. Eligible for Medicaid

2. Eligible for personal care, certified home health care, private duty nursing, or AIDS or other waiver program
3. "have a stable medical condition" [NOTE: this is same definition as in personal care See Section 2 - Eligibility. But note that CDPAP aides may perform skilled tasks, unlike in personal care. In this way the definition of "stable medical condition" is different for CDPAP.
4. "be self-directing or, if non self-directing, have a designated representative"; See above for who may be designated representative. **ALERT re FEB 2024 BUDGET PROPOSAL** - Designated Representatives would no longer be allowed, so people who are not self-directing would be disqualified. see more HERE
5. **WARNING - later in 2025, new applicants for CDPAP or personal care will** require the need for physical assistance with three (3) **Activities of Daily Living (ADL)**, or supervisory assistance with 2 ADLs if the person has dementia or Alzheimer's disease. See more about these coming changes here - which were enacted in 2020 but put on hold because of the public health emergency.

Also, new Independent Assessor procedures (NYIAP) to assess the need for CDPAP, personal care, and MLTC enrollment started May 1, 2022. See more about the Independent Assessor here.

#### **4. WHO CAN BE HIRED AS THE CDPAP AIDE - expanded in 2016 and clarified in 2021**

The consumer may hire almost anyone, including any adult family members except his or spouse. Since April 2016, because of a change in State law, **parents of disabled ADULT children -- have been able to serve as the CDPAP personal assistant (PA) if they are not also the recipient's designated representative. Likewise, an adult** son or daughter, son-in-law or daughter-in-law may now be the aides for their parent. See this article in Democrat & Chronicle, Nov. 25, 2015. Social Services Law Â§365-f, subd. 3, as amended by L. 2015 Ch. 511, enacting Senate bill S05712-A (Sen. Simcha Felder).

A "legally responsible" adult may not be the aide. Spouses are always legally responsible for their spouse. Parents are always legally responsible for their children under age 21. They still may not be the CDPAP aide for those relatives.

- **STATE DIRECTIVES IMPLEMENTING 2015 Changes Expanding Which Family Members May Serve as Personal Assistants:** NYS DOH Issued a Medicaid Update (Vol. 32 No. 3, March 2016) and GIS 16 MA/006 - Changes to the Statute for the Consumer Directed Personal Assistance Program (CDPAP) PDF explaining the new law. However, these documents still say that the family member may not live with the consumer, which was removed from the definition in 2021.

Changes to the CDPAP state regulation effective Nov. 8, 2021 removed the ban that did not allow a family member to be hired as the personal assistant if they lived with the consumer. 18 NYCRR 505.28(b)(4).

### **A "designated representative" of a CDPAP consumer may not be the aide.**

State regulations provide, "...A person legally responsible for the consumer's care and support, a consumer's spouse, or the consumer's designated representative may not be the consumer directed personal assistant for that consumer; however, a consumer directed personal assistant may include any other adult relative of the consumer. 18 NYCRR 505.28(b)(4).

The state regulation defines "designated representative" as "an adult to whom a self-directing consumer has delegated authority to instruct, supervise and direct the consumer directed personal assistant and to perform the consumer's responsibilities specified in subdivision (h) of this section [505.28] and who is willing and able to perform these responsibilities. With respect to a non self-directing consumer, a *designated representative* means the consumer's parent, legal guardian or, subject to the social services district's approval, a responsible adult surrogate who is willing and able to perform such responsibilities on the consumer's behalf. The designated representative may not be the consumer directed personal assistant or a fiscal intermediary employee, representative or affiliated person. 18 NYCRR 505.28(b)(5)

- On Oct. 23, 2023, DOH clarified in two separate directives "that a court-appointed (legal) guardian, including a parent-guardian of an adult aged 21 or older, may serve as an adult individual's CDPAP personal assistant provided they are not also the individual's designated representative."
  - ◆ GIS 23 MA/18 - Clarification on Legal Guardians Serving as CDPAP Personal Assistant (Oct. 23, 2023)
  - ◆ MLTC Policy 23.04: CDPAS Legal Guardian (Oct. 23, 2023)
- **ALERT re FEB 2024 BUDGET PROPOSAL that would have disqualified anyone from CDPAP who needed a Designated Representatives.** This was rejected in the 2024 state budget, though the Single Fiscal Intermediary was enacted in that budget. See more HERE

### **Immigrants must have a valid work authorization.**

The aide need not be "certified" - training is done by the consumer and family. However, one of the changes coming in 2025 with the Single FI is a training requirement. Stay tuned. See above.

## **5. How Do You Obtain CDPAP - Managed Care/MLTC Plan or local Medicaid agency (HRA or local DSS)**

There are different procedures to apply depending on whether the consumer has Medicaid only and is enrolled in a Medicaid Managed Care plan, or whether the individual has both Medicare and Medicaid, or has Medicaid but not Medicare and is not enrolled in a Medicaid Managed care plan.. See [NYC HRA MICSA Medicaid Alert dated Oct. 26, 2012 on CDPAP and Managed Care](#). Also, children under 18 have different procedures.

1. **People with Medicaid Only (and do not have Medicare)** - they are likely enrolled in a **Mainstream Medicaid Managed Care (MMC) plan**, which is mandatory for most people (unless excluded or exempt - see [this chart](#)). If they are enrolled, members age 18 and over request their plans to authorize CDPAP services, as well as personal care services. The Plan will refer them to call the NY Independent Assessor (NYIAP) to be assessed for eligibility. If found eligible by NYIAP, they go back to their Plan and tell them NYIAP approved them for home care. The plan should give them the option of choosing CDPAP. The plan should then do further assessment and authorize CDPAP.

- ◆ **If an individual has Medicaid but not Medicare, and is not enrolled in a Mainstream Medicaid managed care plan, they may call** the NY Independent Assessor (NYIAP) to be assessed for eligibility. They may then contact their local Medicaid office and request CDPAP, explaining that they have been assessed by NYIAP. See [below](#).
- ◆ **Children under age 18** request CDPAP directly from the plan and are not assessed by the NY Independent Assessor. They must submit a form to the plan completed and signed by their physician or nurse practitioner. In NYC - [Form M-11q - Medical Request for Home Care \(12-9-014\)](#). Outside NYC [Form DOH-4359](#),

2. **Managed Long Term Care (MLTC)-- Most adults who have both Medicaid AND Medicare are required to enroll in MLTC in order to obtain CDPAP. They are called Dual Eligibles).**

- ◆ There are some [exceptions](#) - excluded populations who may apply at local DSS (enrolled in OPWDD waiver, enrolled in home hospice, etc.. see list at [above link](#)).
- ◆ People who enrolled in MLTC plans since May 2022 were assessed by the NY Independent Assessor (NYIAP). The MLTC plan used that assessment to authorize them for CDPAP services. Dual eligibles who are just entering the home care system must be assessed by NYIAP in order to enroll in an MLTC plan. They then ask the MLTC plan for CDPAP. The MLTC plan determines eligibility for CDPAP - assessing the consumer's or their representative's ability to direct and managed their own care. See [Responsibilities of the Health Plan](#). It is not clear that MLTC plans (or mainstream MMC plans) are required to use the [NYC Form M-13d](#) or have been given other guidelines or directives on how to assess eligibility. Knowledge of the [laws, regulations and directives governing CDPAP](#) developed over many years is critical. For example, [GIS 08-LTC-005](#) clarifies that the family member or other person



directing care does *not* have to be present at all times in which skilled nursing tasks are administered by a CDPAP aide to a non-self-directing recipient of CDPAP.

3. **Request Services at Local DSS (HRA in NYC).** People who are exempt or excluded from MLTC, or who have an "Immediate Need" for services and are not yet enrolled in an MLTC plan or managed care plan can apply at their local DSS. However, all applicants for CDPAP age 18 and over must be assessed by the NY Independent Assessor first - so it may save time to contact NYIAP first for an assessment, and then contact the local DSS/HRA. See more about NYIAP here.
- In the Immediate Need procedure, one may both apply for Medicaid and request home care. See more about Immediate Need here. If one already has Medicaid and is requesting CDPAP based on Immediate Need, see this article with a new option available in April 2024 to request the NYIA assessment first, and then go back to DSS/HRA to continue the home care request. Once approved, the local DSS authorizes CDPAP. After 120 days of receipt, the individual will be transitioned to MLTC. See more about Transition Rights after Immediate Need here and generally here.
  - Most counties required the consumer or the person directing their care to complete a CDPAP application, to show they are capable of arranging for and managing the care. The NYC application -- Form M-13d (04-2018) (fill-in-able version of this form, created by Evelyn Frank Legal Resources Program)
  - Helpful Hints on Completing the CDPAP Application. (HCSP-712d)(4-26-2010) and
  - CDPAP Fact Sheet (2017-01-20) HCSP-3000-z)
  - **Children under age 18** - submit the standardized Physician's Order for CDPAP - Form DOH-4359 outside NYC and in NYC - Form M-11q - Medical Request for Home Care (12-9-014). The local district (HRA in NYC) conducts the entire assessment - the request is not referred to the NY Independent Assessor.
4. **Transition Rights** - When a consumer is required to transition to an MMC or MLTC plan, after receiving CDPAP services through their local DSS, the MMC plan is required to continue the services previously authorized by the local district (HRA or DSS) for 90 days, at which time the MMC plan re-assesses need. See more about Transition Rights after Immediate Need here and generally here.

## 6. How Many Hours of CDPAP Should be Authorized?

The New York State Department of Health (NYSDOH) has issued guidelines for enrollees to use in requesting services from their plans. NYSDOH Guidelines for Personal Care Services in Medicaid managed care. These guidelines should apply to CDPAP as well as personal care.

See the article on Personal Care for the guidelines and standards for determining the number of hours - especially these sections in the article:

## 5. How Much Personal Care? How are Hours Determined?

A.. Standards for 24-Hour Care - Definition of Live-in and Split Shift

B. Standards for Assessing Need and Determining Amount of Care

## **7. Help with Understanding and Using CDPAP**

The Consumer-Directed Personal Assistance Association of NYS (CDPAANYS) has lots of resources on its website.

- Peer Mentoring Program --CDPAANYS offers Peer Mentoring services to prospective and current CDPA consumers and designees who may have questions about the program or are seeking assistance with successfully running their own CDPA program. Peer Mentoring is always free for those who use the service. You can reach their team of Peer Mentors by calling the toll-free number, **1-855-423-7733 (1-855-4CDP-PEER)**, or sending an email to [peers@cdpaanys.org](mailto:peers@cdpaanys.org). See more [here](#).

Concepts of Independence - the largest and oldest fiscal intermediary, has tutorials and other info. on its website

- **FAQ's and tutorials on how CDPAP works** (including how to hire, train and manage aides)

CaringKind NYC -- TogetherWeCare Program - Consumers or their families can find aides who have completed the CaringKind Dementia Care Training for Professional Caregivers (CaringKind was formerly the NYC Chapter of the Alzheimer's Association)

## **7. CDPAP Laws, Regulations, State Policy Directives & History of CDPAP**

This article explains the CDPAP program in NYS, with cites to state statutes (some have been amended since). Note that this article pre-dates mandatory MLTC.

### **Laws.**

The statutes establishing the CDPAP program include Section 365-f of the Social Services Law and N.Y. Educ. Law Â§ 6908(1)(a) (also known as the Nurse Practice Act, which creates an exception that allows CDPAP aides, along with family and other unpaid informal caregivers, to perform tasks that otherwise may only be performed by licensed nurses.

### **Regulations.**

The State published final regulations, effective April 20, 2011, creating a new section 28 to 18 NYCRR Part 505. See New York State Register April 20, 2011/Volume XXXIII, Issue 16 (pp. 7-8)

- In 2015, the State amended the regulations with new definitions of **24-hour live-in** and **split-shift care**, and more specific requirements for the content of **written notices** when services are reduced.

See December 2015 NYS Dept. of Health GIS 15 MA/024 - Changes to the Regulations for the Personal Care Services Program (PCS) and the Consumer Directed Personal Assistance Program (CDPAP) (PDF) NOTICE OF ADOPTION

- Scope of the CDPAP Benefit
- The 2011 final regulations with the Notice of Adoption, with review of public comments received and regulatory impact statement, are posted here. Compare with the proposed regulations -- notice of proposed rulemaking on September 29, 2010. These Comments were submitted by Selfhelp Community Services and other organizations representing the interests of consumers.
- Interim AMENDMENTS -- The state regulation for Medicaid personal care services was partially amended effective on 10/4/11 (published in NYS Register Oct. 19, 2011 p. 33), which expired 90 days after filing and then was republished as an emergency regulation effective 12/30/2011. See December 30, 2011 - Personal Care Services Program and Consumer Directed Personal Assistance Program. That regulation again expired, but was re-filed effective March 29, 2012, when an amended emergency regulation was filed. See <http://www.dos.ny.gov/info/register/2012.html> .
- 2016 - Regulation amended to allow certain family members to be Personal Assistants for CDPAP consumer. see above
- Nov. 8, 2021 - Regulation amended to remove requirement that a CDPAP aide not live with the consumer.

## State Directives

**State Dept. of Health guidance for MLTC and managed care plans plans to provide CDPAP services** -- on the Medicaid Redesign Team page, scroll down to MRT 90 - MLTC and then to *CDPAS Final MLTC Documents* (posted around 10/1/12)

- Responsibilities of the Health Plan and Consumer (acknowledgement that MLTC member must sign)
- Policy for the Transition of Consumer Directed Personal Assistance Services into Managed Care
- Administrative Agreement for the Provision of Fiscal Intermediary Services for the Consumer Directed Personal Assistance Program

The following directives have been issued since the above article was written in 2003:

- [02 GIS MA024 - Consumer Directed Personal Assistance Program Scope of Services](#)
- [04 GIS MA010 - Consumer Directed Personal Assistance Program Scope of Services \(Revision of GIS 02MA/024\)](#) (clarifies scope of tasks CDPAP personal assistant may do, especially re Physical, Speech & Occupational therapy)
- [06 OMM/LCM-1: Questions and Answers Related to the Administration of the CDPAP](#)
- [06 OMM/LCM-02: Consumer Directed Personal Assistance Program \(CDPAP\)](#)
- [Consumer Directed Personal Assistance Program: Clarification of 06 OMM/LCM-1, "Questions and Answers Related to Administration of the CDPAP"](#) GIS 08-LTC-005 --Clarifies that the family member or other person directing care does *not* have to be present at all times in which skilled nursing tasks are administered by a CDPAP aide to a non-self-directing recipient of CDPAP. This GIS was issued as a result of litigation in [Leon v. Danes, et.al.](#) (CV 07-1674 E.D.N.Y, June 12, 2008)(available on [WNYLC Online Resource Center Benefits database](#) (with free log-in))
- [Non Medical Transportation in the Consumer Directed Personal Assistance Program](#) GIS 08-LTC-007 (issued as a result of litigation or threatened litigation, described in [this article](#))
- [GIS 10 LTC-009 - 2010 Consumer Directed Personal Assistance Program \(CDPAP\) Implementation Plan \(PDF\)](#) [Attachment \(PDF\)](#)
- [GIS 10 LTC 005 - Consumer Directed Personal Assistance Program \(CDPAP\) Documents](#) - lists all State directives that currently apply to CDPAP in NYS as of 8/25/10
- [11LTC004 - Consumer Directed Personal Assistance Program \(CDPAP\) Services Provided Out of State](#)
- [11ADM-06 - Consumer Directed Personal Assistance Program \(CDPAP\) Scope and Procedures](#)
  - ◆ [Attachment 1](#)
  - ◆ [Attachment 2](#)
  - ◆ [Attachment 3](#)
  - ◆ [Attachment 4](#)
  - ◆ [Attachment 5](#)
- [11LTC 007 - New State Law Requiring Automatic Change To No More than 8 Hours Per Week of Nutritional and Environmental Support Functions \(Level I\) For Personal Care and CDPAP Consumers Who Are Authorized to Receive Only Nutritional and Environmental Support Functions](#)
  - ◆ [Attachment 1](#)
  - ◆ [Attachment 2](#)
- [12-ADM-01 - Changes to Personal Care Services Program and Consumer Directed Personal Assistance Regulations Resulting From MRT #4652](#)
- [GIS 15 MA/024 - Changes to the Regulations for the Personal Care Services](#)

Program (PCS) and the Consumer Directed Personal Assistance Program (CDPAP) - [\(PDF\)](#)

- ◆ [NOTICE OF ADOPTION - \(PDF\)](#)
- ◆ [Scope of the CDPAP Benefit - \(PDF\)](#)
- ◆ [Scope of the Personal Care Services Benefit - \(PDF\)](#)
- 2016 - [Medicaid Update](#) (Vol. 32 No. 3, March 2016) and [GIS 16 MA/006 - Changes to the Statute for the Consumer Directed Personal Assistance Program \(CDPAP\) PDF](#) explaining changes in statute allowing children or parents of adult consumers to be the personal assistants.
- [GIS 17 MA/006: Consumer Directed Personal Assistance Program \(CDPAP\) Provided Out of State \(PDF\)](#)
- [GIS 23 MA/18 - Clarification on Legal Guardians Serving as CDPAP Personal Assistant](#) (Oct. 23, 2023) and [MLTC Policy 23.04: CDPAS Legal Guardian](#) (Oct. 23, 2023)
  - ◆ DOH clarified "that a court-appointed (legal) guardian, including a parent-guardian of an adult aged 21 or older, may serve as an adult individual's CDPAP personal assistant provided they are not also the individual's designated representative."
- [CDPAP Statewide Fiscal Intermediary Transition Policy for Current Fiscal Intermediaries](#) (Dec. 2024)
- [MLTC Policy 24.04 \(PDF\)](#)
- [CDPAP Statewide Fiscal Intermediary Transition Policy for Medicaid Managed Care Plans](#) (Dec. 2024)
- [Administrative Directive 24 OHIP/ADM-01](#)
- See [more about transition to a Single Fiscal Intermediary here](#) (2025)

**State Managed Long Term Care Contracts, Guidelines re CDPAP** ([Posted Oct. 1, 2012](#), eff. 11/1/2012)

- [Responsibilities of the Health Plan](#) and Consumer (acknowledgement that MLTC member must sign)
- [Policy for the Transition of Consumer Directed Personal Assistance Services into Managed Care](#)
- [Administrative Agreement for the Provision of Fiscal Intermediary Services for the Consumer Directed Personal Assistance Program](#)

## NYC Directives

- NYC HRA MICSA ALERT Oct. 26, 2012 -- [CDPAP and Managed Care](#)

## HISTORY

For a history of the development of the consumer-directed program in New York City, which was a national leader in launching this form of service 33 years ago, see [this article](#)., along with:

- Original Certificate of Incorporation of Concepts of Independence - Dec 12, 1977
- Special Report - Evaluation of the Client Maintained Plan - June 1981
- Original CONCEPTS OF INDEPENDENCE By-Laws - Amended to Reflect 1983 Name Change

## 8. ARCHIVES: RATE CUTS and LITIGATION 2019

On October 11, 2019, the Albany County Supreme Court enjoined NYS DOH from implementing a new reimbursement methodology for Consumer-Directed Personal Assistance (CDPAP) which would have drastically cut reimbursement rates. See court decision [here](#).

- Because of this decision, the State DOH guidance implementing the rate cuts will not go into effect. This includes FAQ's about the reimbursement rate cuts for (CDPAP) services that went into effect on September 1, 2019 for Fee for Service CDPAP (not CDPAP provided through managed care or Managed Long Term Care plans), and DOH **Managed Care Policy 19.01: Implementation of Fiscal Intermediary (FI) Rate Structure Enacted in the SFY 2019 NYS Budget** (Appendices can be downloaded on MRT 90 page - click on 2019). The court decision enjoins the State's implementation of changes in how CDPAP Fiscal Intermediaries are reimbursed enacted in the state budget in April 2019, which would have the effect of cutting rates by \$75 million in state funds (\$150 including federal funds).
- The lawsuit, filed by CDPAANYS and individual Fiscal Intermediaries, claims that the rate cuts violate both federal and state requirements, and are so severe that will put many CDPAP fiscal intermediaries out of business, effectively ending the CDPAP program. As reported in the Utica Observer-Dispatch on Oct. 3, 2019, "Some managed care companies, though, have already started changing contacts with fiscal intermediaries in anticipation of lower rates, advocates said." Advocates: State Cuts Threaten Medicaid Home Care Program. The article further stated:

"The horror stories are already flooding in of cuts and threatened cuts affecting services, said Bryan O'Malley, executive director of the Consumer Directed Personal Assistance Association.

"The department of health cut this program by over 15 percent without even a basic understanding of what the agencies do," he said in an email. "DOH is sticking by their talking point that services and wages would not be affected, but now that we are seeing the real-life repercussions, they can't hide behind this myth any more. The devastation their actions are causing to thousands of New Yorkers is inescapable."

Having participants simply switch to receiving services through existing staff at home care agencies is problematic, advocates said, given a shortage of home care workers, particularly in rural areas."

The lawsuit was previously reported about in Crain's NY Business on Aug. 14, 2019 and [Spectrum News](#) on August 1, 2019.

The first round of cuts directly effect CDPAP services provided on a Fee-for-Service basis through local district Medicaid programs, not those enrolled in Medicaid managed care or MLTC plans. However, advocates and the CDPAP association contend that the cuts will force many CDPAP provider agencies, called Fiscal Intermediaries ("FI"), to close - resulting in reduced access to this service across the state for the 90,000 consumers who rely on CDPAP services, in MLTC plans and managed care plans as well.

Also, many consumers choose CDPAP because they have "skilled" needs that traditional personal care aides may not perform, such as suctioning a tracheostomy, operating a ventilator, or directly administering insulin or other medications. See [Scope of Tasks](#) of various types of aides. While they may be eligible for Medicaid [Private Duty Nursing services](#), managed care and MLTC plans resist authorizing these services because they are so expensive. These consumers, and others facing reduced access to care when the FIs close, may well be forced into nursing homes.

The July 2019 DOH guidance implementing the CDPAP rate cuts -- **[Managed Care Policy 19.01](#)** -provides for transition rights to ensure "a smooth transition of consumers to a different FI in the event that an FI no longer provides services or leaves a service area."

Advocates warn that the transition rights are insufficient. In comments to a Workgroup convened by State DOH, The Legal Aid Society warned that "these transition rights only apply to CDPAP enrollees transferring from one FI to another," not to those CDPAP enrollees who are forced to transfer to traditional personal care services because there is no CDPAP FI with capacity to serve them (copy on file with NYLAG EFLRP). The Legal Aid comments also stated that the State's guidelines do not provide for directing consumers where to go for help if they face disruption in services - whether [New York Medicaid Choice](#), the State's enrollment broker for managed care and MLTC plans, or [ICAN](#) - the State's Ombudsprogram for consumers in MLTC plans or receiving long-term care services in managed care plans.

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