

February 22, 2024
HCP Memo 2024-2

MEMO IN OPPOSITION

Part HH of Health & Mental Hygiene Article VII (A8807-A / S8307-A)

HCP strongly opposes Part HH of Health & Mental Hygiene Article VII (A8807-A / S8307-A).

Introduction

This deeply flawed proposal has devastating, far-reaching implications for the state's Medicaid home health care program. If enacted, these changes would leave tens of thousands of elderly and disabled Medicaid patients without care while severely undermining the state's capacity to provide essential home care services to vulnerable populations. Families and enrollees deserve the assurance of receiving dignified care within the comfort of their homes.

Discussion

Part HH seeks to address a problem that doesn't exist: a "conflict of interest" between Licensed Home Care Services Agencies (LHCSA) and Fiscal Intermediaries (FI) in the Consumer Directed Personal Assistance Program (CDPAP). The process of determining program eligibility, devising care plans, and allocating service hours is already overseen by entities contracted with or certified by the State of New York's Department of Health (DOH) i.e. insurers and local Departments of Social Services. **LHCSAs and FIs become involved only after these critical decisions are made.**

LHCSAs, FIs, and insurers work together to staff, finance, and manage home care services, regardless of service model. Across the state in rural, suburban, and urban areas, consumers are desperate to access the care they need to remain in their communities. The proposed conflict of interest regulation does nothing but make care more difficult to deliver to the patients and family caregivers who rely on it.

LHCSAs provide the personnel for a variety of care types including nursing, homemaker, housekeeper, personal care aides, and other health / social services. CDPAP allows Medicaid recipients to receive personalized care from a chosen Personal Assistant (PA). Under CDPAP, consumers have the autonomy to dictate their care needs and select their caregivers, with FIs managing financial and administrative aspects. These two different models each serve a unique purpose, therefore no conflict of interest exists between the two service lines.

Part HH also proposes eliminating the utilization of Designated Representatives (DRs) within CDPAP. Acting as surrogates for consumers who are unable to autonomously manage their care, DRs have played a pivotal role in facilitating access to essential services. Eliminating DRs from CDPAP virtually eliminates the program's accessibility for minors and individuals with Alzheimer's Disease or dementia who rely on DRs for

The New York State Association of Health Care Providers, Inc. (HCP) is a statewide trade association representing the full spectrum of home and community-based care providers through information, advocacy, and education. HCP represents licensed home care services agencies, certified home health agencies, fiscal intermediaries, hospices, and related health organizations.

care coordination. This change would exclude up to 100,000 individuals or more from CDPAP eligibility, exacerbating the current home care workforce shortage and further reducing access to care. Additionally, without the option for a DR, countless other vulnerable beneficiaries will not be able to navigate the health care system, resulting in the need for a costlier and more restrictive care setting. Furthermore, many PAs would find themselves without the beloved job they may have held for many years.

Additionally, the bill erroneously empowers the DOH Commissioner to regulate PA training, undermining the longstanding principle of consumer autonomy in personnel management in CDPAP. It also imposes ambiguous caps on PA working hours, potentially infringing upon consumer preferences for flexible care arrangements. Freedom to choose one's caregiver is the very foundation of the CDPAP program. These restrictions destroy that freedom of choice for the person receiving care.

Finally, the legislation restricts the number of FIs within plan or county networks, impeding consumer choice without specifying the allowable quantity of FIs.

Given these significant concerns, HCP firmly opposes Part HH of Health & Mental Hygiene Article VII (A8807-A / S8307-A) and urges the legislature to reject it in its entirety.

About HCP:

Through advocacy, information, and education, HCP influences the future of the home care industry and leads it in adapting, evolving, and thriving in an ever-changing health care environment. We contribute to setting the standards for quality, cost-effective care, and firmly believe that patients do better at home