



January 7, 2025

Dear Amir,

We are writing on behalf of the New York Health Plan Association (HPA), the Coalition of New York State Public Health Plans (PHP Coalition), Leading Age New York (LANY) and the Home Care Association of New York State (HCA) to convey our concerns related to the Department of Health's ("DOH") MCO Notice of Single Fiscal Intermediary Contract Compliance, sent to plans on January 2, 2025.

As an initial matter, we want to stress that plans remain committed to working with the State and PPL to assure a smooth transition for plan members. Our primary concern has been focused on ensuring that the implementation of the initiative not disrupt services to members – which is no small matter given the magnitude and speed of the transition, the vulnerability of the members receiving FI services and questions regarding PPL's financial and operational readiness. Plans are making every effort to transition more than 250,000 Consumer Directed Personal Assistance Program (CDPAP) members to PPL by April 1st. To date, health plans have worked cooperatively with DOH and with PPL to implement the initiative.

We were thus disappointed to read the Notice which threatens regulatory sanctions if plans do not contract with PPL by February 1st. We want to convey that health plans are not the cause for the contracting issues.

There are three primary causes for the contracting challenges, all of which are attributable to PPL:

- PPL has insisted on plans pre-paying for the Direct Care Service Costs before the services have been rendered, to be followed by an after-the fact reconciliation. PPL has explained its position by saying that it does not have the cash resources to fund the payments to workers without an advance. This contract demand is directly contrary to DOH's guidance to plans that the process for payments to PPL would be no different than what occurs at present – which does not include pre-payment to FIs. More importantly, this demand is contrary to DOH's RFP, which stated that pre-payment, if any, had to be negotiated between the parties and that DOH would not intervene in the process. Indeed, the RFP required that bidders have a \$100 million line of credit to make sure that the FI could fund payments to workers. There is no provision in the current capitation rates or operation of the program that would account for this type of massive transfer of the financing of worker payments. To be clear, some plans may opt to make pre-payments. But other plans should not be pressured to accept this term.
- PPL has insisted on reimbursement rates for the Direct Care Service Costs that are higher than what is contemplated by the current plan capitation rates and higher than what plans now pay. We can only assume that this demand for higher reimbursement is an effort by PPL to increase its margin or to cover additional administrative cost – both of which were explicitly prohibited by the RFP's FAQ. The single FI initiative was supposed to reduce State Medicaid costs, not increase them. For this reason, Direct Care Service Costs must be limited to the actual cost of reimbursing direct care expenses such as wages, benefits and statutorily required worker expenses.
- PPL is also seeking to impose responsibilities for the operation of the program that are DOH's prerogative and not within the purview of an FI. For example, PPL's proposed contract purports to impose compliance responsibilities on managed care organizations. But the authority to impose such requirements rests with DOH and is governed by the State's contract with the MCO not a contract from a vendor.

It is our understanding that the contracting issues can quickly be resolved if 1) PPL drops its demand for pre-payment 2) agrees to accept rates that are consistent with what is now being paid and 3) hews more closely to the existing FI template of operational responsibilities. But if PPL continues to insist on terms that are contrary to State policy and fiscal expectations, then DOH's response should be to direct PPL to negotiate consistent with the letter and spirit of its bid.

In closing, we reiterate that plans will work in good faith with DOH and PPL to implement the single FI initiative with the primary goal of avoiding member disruption. However, we urge DOH to take an approach to contracting that is balanced and does not allow PPL to shift costs or operational responsibilities onto plans in contravention of State policy and the RFP.