

STATE OF NEW YORK

10537

IN ASSEMBLY

March 6, 2026

Introduced by M. of A. GONZALEZ-ROJAS -- read once and referred to the Committee on Health

AN ACT to amend the social services law, in relation to fiscal intermediaries under the consumer directed personal assistance program; and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (c) of subdivision 4-a of section 365-f of the
2 social services law is REPEALED and a new paragraph (c) is added to read
3 as follows:

4 (c) (i) The statewide fiscal intermediary shall furnish all informa-
5 tion necessary for the commissioner to assure adequate capacity and
6 access for consumers using the program and to establish administrative,
7 financial, and management arrangements in a form and manner established
8 by the commissioner.

9 (ii) The data required in the reports pursuant to subparagraph (i) of
10 this paragraph shall be furnished to the commissioner at least quarterly
11 and shall be based on a calendar year. Data shall be based on the appli-
12 cable reporting period, unless otherwise specified. Data shall be
13 further detailed by month; rate setting region; and the managed care
14 plan or local department of social services authorizing services, as
15 applicable. The report or reports shall be due thirty calendar days
16 after the last day of the quarter, unless the commissioner establishes a
17 more frequent reporting period for any or all of the items herein.

18 (iii) The data to be reported shall include, but not be limited to:
19 (A) To ensure adequate monitoring and access of the program, the
20 statewide fiscal intermediary shall report utilization data that shall
21 include, but not be limited to:

22 (1) the number of consumers for whom the statewide fiscal intermediary
23 has received an authorization from a managed care organization or local
24 department of social services for the receipt of services, including the
25 number of consumers authorized to receive services with the support of a
26 designated representative;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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(2) the number of consumers completely enrolled with the statewide fiscal intermediary and eligible to receive services, including the number of consumers enrolled to receive services with the support of a designated representative;

(3) the number of consumer directed personal assistants, categorized by those who are fully registered and working and those who are partially registered and not yet providing services;

(4) the total number of consumer directed personal assistants;

(5) the average number of consumer directed personal assistants per consumer;

(6) the number of new consumers, including, but not limited to:

(I) the number of new consumers offered services by a subcontracted facilitator;

(II) the number of new consumers opting to receive facilitation services via a subcontracted facilitator;

(III) the number of new consumers who began receiving services less than three days after a service authorization was received; and

(IV) any other data required by the commissioner;

(7) the number of consumers who discontinued services, including specific information on whether such discontinued services were due to one of the following reasons:

(I) a lapse in service authorization;

(II) death;

(III) a lack of continued program eligibility; or

(IV) any other reason determined by the commissioner;

(8) the number of hours consumers are authorized to receive, as a total and based upon categories established by the commissioner that shall, at a minimum, contain three different groupings;

(9) the number of hours from the authorization that consumers utilize; as a total and based upon categories established by the commissioner that shall be consistent with subclause eight of this clause;

(10) the time increment by which utilized hours are calculated; and

(11) the number of referrals that the statewide fiscal intermediary received during the reporting period from each managed care organization, local department of social services, the New York Independent Assessor, and any other source as determined by the commissioner.

(B) To protect medical assistance recipients in using the program and ensure effective use of medical assistance funds, the commissioner shall collect financial data from the statewide fiscal intermediary. Such data shall include, but not be limited to:

(1) the reimbursement rates paid to the statewide fiscal intermediary by each managed care entity operating pursuant to section three hundred sixty-five-j of this chapter or section forty-four hundred three-f of the public health law, including a detailing of how the reimbursement rate is used on direct care expenditures, as well as any other costs it is used for;

(2) in order to ensure the financial stability of the statewide fiscal intermediary, the manner in which the per member per month administrative payment, as well as any other reimbursements not used for direct care services, in whole or in part, are distributed to account for administrative and general operating expenditures, including the percentage paid for executive level leadership, as defined by the commissioner; the percentage paid for capital expenditures; the percentage paid for non-executive level administrative staff, including customer service staff; the percentage paid for contracted staff, including temporary workers; the percentage paid for subcontracted facilitator

1 services; the percentage for language and Americans with Disabilities
2 Act related accessibility; the percentage used as profit and distributed
3 to individual owners; parent or subsidiary corporations; equity holders;
4 shareholders; or any other ownership entity or individual in cash, divi-
5 dends or other payments, including digital currency; and any other meas-
6 ures determined by the commissioner;

7 (3) in the event of advance payment to the statewide fiscal interme-
8 diary for services rendered, the amount of the reconciliation amount at
9 the close of each month in the reporting period;

10 (4) in any region subject to the provisions of section thirty-six
11 hundred fourteen-c of the public health law, a full reporting of
12 expenses to ensure full compliance with said section and any regulations
13 promulgated pursuant to said section in a manner that is satisfactory to
14 the commissioner to demonstrate that no portion of the dollars spent or
15 to be spent to satisfy the wage or benefit portion under that section
16 were returned to the statewide fiscal intermediary or its related
17 persons or entities, other than to a home care aide as defined in said
18 section to whom the wage or benefits are due, as a refund, dividend,
19 profit, or in any other manner;

20 (5) any pending or resolved litigation, penalties, payments, contract
21 terminations, wage theft complaints or other actions as determined by
22 the commissioner, in this state or any other state, with the highest
23 potential penalty faced for any unresolved action and the actual amount
24 of penalty imposed in the event of resolved actions, so as to determine
25 the impact on the statewide fiscal intermediary's continued ability to
26 adequately provide services to consumers;

27 (6) the amount of overtime wages paid to consumer directed personal
28 assistants within the quarter, including, but not limited to:

29 (I) the total number of overtime hours reported in the statewide
30 fiscal intermediary's electronic visit verification system;

31 (II) the total number of overtime hours paid by the statewide fiscal
32 intermediary;

33 (III) the total amount of overtime wages paid to consumer directed
34 personal assistants;

35 (IV) the total number of consumer directed personal assistants working
36 overtime;

37 (V) the average number of overtime hours worked as a rate across all
38 consumer directed personal assistants; and

39 (VI) the average number of overtime hours worked as a rate across only
40 consumer directed personal assistants working overtime;

41 (7) the number of hours paid by the statewide fiscal intermediary that
42 were not billable to Medicaid, including those not payable because:

43 (I) the consumer had an invalid authorization but the personal assist-
44 ant still worked;

45 (II) the consumer exceeded their authorized hours but the personal
46 assistant still worked;

47 (III) the consumer was in the hospital or another setting that disal-
48 lowed billing; and

49 (IV) other reasons determined by the commissioner.

50 (C) To ensure the availability of a workforce to meet the needs of
51 consumers utilizing the program, the statewide fiscal intermediary shall
52 provide consumer directed personal assistant data, including payroll and
53 wage information that includes, but is not limited to:

54 (1) the average number of days it takes to onboard a new personal
55 assistant;

56 (2) the number of timely processed payrolls per cycle;

1 (3) the wage on a per hour basis of consumer directed personal assist-
2 ants;

3 (4) the number of accurate paychecks per payroll period compared to
4 the number of total paychecks per payroll period;

5 (5) the time increment used to calculate a personal assistant's
6 payroll;

7 (6) the number of hours registered within the statewide fiscal inter-
8 mediary's time and attendance system;

9 (7) the number of hours and wages paid by the statewide fiscal inter-
10 mediary to consumer directed personal assistants per payroll period;

11 (8) the number of hours and amount of wages pending by the statewide
12 fiscal intermediary per payroll period. Such data shall be categorized
13 by:

14 (I) hours and wages that have been pending for thirty days or less;

15 (II) hours and wages that have been pending for sixty days or less but
16 more than thirty days;

17 (III) hours and wages that have been pending for ninety days or less
18 but more than sixty days;

19 (IV) hours and wages that have been pending for one hundred eighty days
20 or less but more than ninety days; and

21 (V) hours and wages that have been pending for over one hundred eighty
22 days;

23 (9) the number of hours in review by the statewide fiscal intermediary
24 per payroll period. Such data shall be categorized by:

25 (I) hours and wages that have been in review for thirty days or less;

26 (II) hours and wages that have been in review for sixty days or less
27 but more than thirty days;

28 (III) hours and wages that have been in review for ninety days or less
29 but more than sixty days;

30 (IV) hours and wages that have been in review for one hundred eighty
31 days or less but more than ninety days; and

32 (V) hours and wages that have been in review for over one hundred
33 eighty days;

34 (10) the number of hours and wages denied by the statewide fiscal
35 intermediary per payroll period. Such data shall include the number of
36 instances where the statewide fiscal intermediary's time and attendance
37 system prevented a consumer directed personal assistant from beginning a
38 shift;

39 (11) in relation to items eight, nine and ten of this subclause, the
40 three most common reasons for the action;

41 (12) in relation to subclauses eight, nine and ten of this clause, the
42 number of communications sent to consumers informing them of the fact
43 that their consumer directed personal assistants' wages were subject to
44 such action and detailing how the consumer or the consumer directed
45 personal assistant could resolve the issue or issues; and

46 (13) the number of hours in excess of thirteen paid for consumer
47 directed personal assistants working with consumers authorized to
48 receive twenty-four hour live-in care due to the consumer directed
49 personal assistant not receiving required sleep or breaks, as well as
50 the number of individual cases of payments being necessary that such
51 hours represent.

52 (D) To ensure that consumers and consumer directed personal assistants
53 in the program receive high quality services, the statewide fiscal
54 intermediary shall provide data regarding customer service requests,
55 complaints, and accessibility, including but not limited to:

(1) the number of consumer customer service calls, including the five most common reasons for such calls;

(2) the average wait time for consumers on the phone to have a call answered by a live individual, or in the event that the consumer chooses to leave a message, the average amount of time it takes for the statewide fiscal intermediary to return the individual's call;

(3) the average amount of time it takes for the statewide fiscal intermediary to successfully resolve a consumer customer service call;

(4) the number of complaints received from:

(I) consumers;

(II) consumer directed personal assistants; and

(III) designated representatives via phone call and form.

For each group, the top five categories of complaints shall be identified;

(5) the number of complaints successfully resolved for:

(I) consumers;

(II) consumer directed personal assistants; and

(III) designated representatives;

(6) the number of unresolved complaints for:

(I) consumers;

(II) consumer directed personal assistants; and

(III) designated representatives;

(7) the number of complaints closed without successful resolution by the statewide fiscal intermediary for:

(I) consumers;

(II) consumer directed personal assistants; and

(III) designated representatives;

(8) the number of calls or interactions for which an interpreter was requested, including detail on the specific number of calls received in the top ten languages spoken in the state as defined by the commissioner;

(9) the number of live or recorded interactions, either in-person, via telephone, or via electronic means for which an interpreter was provided, including specific detail on the specific number of interactions in which an interpreter was provided for the top ten languages spoken in the state, as defined by the commissioner;

(10) the number of live or recorded interactions, either in-person or via electronic means, in which an American Sign Language interpreter was provided in-person or via video relay;

(11) the number of live or recorded interactions, either in-person or via electronic means, that included measures for individuals with low-vision or who are blind.

(E) To track information about subcontracted facilitators operating pursuant to a subcontract under subparagraph (ii-a) of paragraph (b) of this section and ensure that consumers who need or desire supportive services provided by such subcontracted facilitators are offered and receive them, the statewide fiscal intermediary shall provide data about their interactions with subcontracted facilitators. Such data shall include, but not be limited to:

(1) the number of consumers who are offered the ability to receive support services via a subcontracted facilitator:

(I) upon initial enrollment with the statewide fiscal intermediary; and

(II) at subsequent intervals after initial enrollment, including the standard time interval for such offering if such standard time interval exists and the top five reasons for such offering;

1 (2) the number of consumers who opt to receive support services from a
2 subcontracted facilitator;

3 (3) the number of consumers who are registered with each subcontracted
4 facilitator;

5 (4) the number of times the statewide fiscal intermediary offers the
6 services of each specific subcontracted facilitator;

7 (5) the number of consumers who request the use of a subcontracted
8 facilitator after initial enrollment;

9 (6) the number of consumers who are offered the use of a subcontracted
10 facilitator after initial enrollment, including the most common five
11 reasons such offer is made;

12 (7) the number of consumers who lose access to services through a
13 subcontracted facilitator due to a lapse in service authorization and
14 the number of those consumers who, upon resolution of the lapse in
15 service authorization:

16 (I) are automatically reenrolled with the subcontracted facilitator
17 they were previously enrolled with;

18 (II) are offered the opportunity to reenroll with the subcontracted
19 facilitator they were previously enrolled with and opt to do so;

20 (III) are offered the opportunity to enroll with the subcontracted
21 facilitator they were previously enrolled with and opt to enroll with a
22 different subcontracted facilitator instead;

23 (IV) are offered the opportunity to enroll with any subcontracted
24 facilitator without acknowledgement of the subcontracted facilitator
25 they were previously working with;

26 (V) are offered the opportunity to enroll with their previous subcon-
27 tracted facilitator but opt to enroll only with the statewide fiscal
28 intermediary;

29 (VI) are directly reenrolled with the statewide fiscal intermediary
30 with no offer of enrollment with a subcontracted facilitator; or

31 (VII) any other criteria the commissioner may establish;

32 (8) the number of consumers who leave each subcontracted facilitator
33 with data regarding:

34 (I) how many of those consumers go to a different subcontracted faci-
35 litator;

36 (II) how many of those consumers began receiving services solely
37 through the statewide fiscal intermediary;

38 (III) how many of those consumers left because they no longer were
39 receiving consumer directed personal assistance services; and

40 (IV) any other data the commissioner shall determine necessary;

41 (9) the number of consumers not receiving facilitator services who the
42 statewide fiscal intermediary refers to the managed care organization or
43 local department of social services due to the statewide fiscal interme-
44 diary's belief that the consumer or the consumer's designated represen-
45 tative is no longer capable of self-direct or manage their consumer
46 directed personal assistance services, and the number who were first
47 referred to a subcontracted facilitator for supportive services as an
48 attempt to build the skills necessary for successful self-direction; and

49 (10) any other data as may be determined necessary by the commission-
50 er.

51 (F) To ensure the integrity of public funds, the statewide fiscal
52 intermediary shall provide data to the commissioner including but not
53 limited to:

54 (1) the number of consumers reported to managed care plans or local
55 departments of social services because the statewide fiscal intermediary
56 determined they may be unable to safely direct their own services;

1 (2) the number of self-disclosures by the statewide fiscal interme-
2 diary to the office of the Medicaid inspector general;

3 (3) the number of consumers reported to the office of the Medicaid
4 inspector general for suspected fraud, waste, or abuse;

5 (4) the number of consumer directed personal assistants reported to
6 the office of the Medicaid inspector general for suspected fraud, waste,
7 or abuse;

8 (5) the number of consumers reported to the attorney general's Medi-
9 caid fraud control unit, or any successor unit, for suspected fraud;

10 (6) the number of consumer directed personal assistants reported to
11 the attorney general's Medicaid fraud control unit, or any successor
12 unit, for suspected fraud; and

13 (7) the number of internal incidents captured by the statewide fiscal
14 intermediary's Medicaid compliance program, with outcome;

15 (8) any audits or investigations of the statewide fiscal intermediary,
16 or any affiliated company or individual with an ownership interest
17 greater than one percent, by the office of the attorney general, the
18 comptroller, the office of the Medicaid inspector general, or any other
19 federal, state, county, or municipal agency or entity with audit or
20 investigative powers; and

21 (9) any audits or investigations of the statewide fiscal intermediary,
22 or any affiliated company or individual with an ownership interest equal
23 to or greater than one percent, in any other state, by any federal,
24 state, county, or municipal agency or entity with audit or investigative
25 powers.

26 (iv) In addition to the quarterly reports required by this paragraph,
27 the statewide fiscal intermediary shall complete an annual report. The
28 annual report shall include data from the fourth quarter as well as all
29 information from previous quarterly reports in the calendar year. All
30 information shall be broken out by month to allow the commissioner to
31 identify trends, areas of improvement or concern, and other critical
32 information related to access, quality, the financial well-being of the
33 organization, and Medicaid integrity.

34 (v) Upon receipt by the department, the reports submitted pursuant to
35 this paragraph shall be made publicly available on the department's
36 webpage in a manner that is accessible and searchable. In the event that
37 amendments to the report are necessary by the statewide fiscal interme-
38 diary, such amendments shall not delay publication of the report but
39 shall be reflected in the data once said amendments are received, with
40 documentation of when updates were made and which sections were amended.

41 (vi) A failure by the statewide fiscal intermediary to provide data in
42 a timely manner, the submission of any data that is knowingly false, or
43 the omission of any data required under the report shall be subject to
44 penalties established in subdivision four-b of this section, as well as
45 any additional penalties imposed pursuant to the contract between the
46 statewide fiscal intermediary and the department.

47 § 2. This act shall take effect immediately, provided that the reports
48 requirements established pursuant to subparagraph (iii) of paragraph 4-a
49 of section 365-f of the social services law made by section one of this
50 act shall not be required until the third quarter of the calendar year
51 after the effective date of this act; and provided, further, that the
52 annual report required pursuant to subparagraph (iv) of paragraph 4-a of
53 section 365-f of the social services law made by section one of this act
54 shall contain information on all four quarters of the calendar year as
55 mandated.