STATE OF NEW YORK

5145

2025-2026 Regular Sessions

IN SENATE

February 19, 2025

Introduced by Sens. COMRIE, ADDABBO, CLEARE, FERNANDEZ, MARTINEZ, MYRIE, SALAZAR, SANDERS, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the social services law, in relation to certain authorizations to fiscal intermediaries

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

Section 1. Paragraph (b) of subdivision 4-a of section 365-f of the social services law, as amended by section 2 of part HH of chapter 57 of the laws of 2024, is amended to read as follows:

(b) [~~Notwithstanding section one hundred sixty-three of the state finance law, section one hundred twelve of the state finance law, or section one hundred forty-two of the economic development law the commissioner shall enter into a contract under this subdivision with an eligible contractor that submits an offer for a contract, provided, however, that:~~

~~(i) the department shall post on its website:~~

~~(A) a description of the proposed statewide fiscal intermediary services to be provided pursuant to a contract in accordance with this subdivision;~~

~~(B) the criteria for selection of the statewide fiscal intermediary, which shall include at a minimum that the eligible contractor is capable of performing statewide fiscal intermediary services with demonstrated cultural and language competencies specific to the population of consumers and those of the available workforce, has experience serving individuals with disabilities, and as of April first, two thousand twenty-four is providing services as a fiscal intermediary on a statewide basis with at least one other state;~~

~~(C) the manner by which prospective contractors may seek such selection, which may include submission by electronic means;~~

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

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~~(ii) all offers that are received from prospective contractors in a timely fashion and that meet the criteria set forth in clause (B) of subparagraph (i) of this paragraph shall be reviewed by the commissioner; and~~

~~(iii) the commissioner shall award such contract to the contractor that meets the criteria for selection and offers the best value for providing the services required pursuant to this section and the needs of consumers.~~] The commissioner shall provide authorizations under this subdivision to all fiscal intermediaries that timely submit a request for authorization prior to January first, two thousand twenty-six, and meet the requirements of this section. No entity shall provide, directly or through contract, fiscal intermediary services without having received an authorization as a fiscal intermediary issued by the commissioner in accordance with this subdivision, or that has a pending authorization timely submitted and currently in processing, review, appeal, or legal challenge.

(i) An application for authorization as a fiscal intermediary shall be filed with the commissioner, together with such other forms and information as shall be prescribed by, or acceptable to the commissioner. Such information shall consist of the following:

(A) the name and employer identification number, of the entity, including any subsidiary corporations, if applicable, and any name under which the entity does business;

(B) all addresses at which the organization operates;

(C) the names, titles and contact information of all officers and directors in a not-for-profit company or business, or managers in a limited liability company, as well as the name and employment history of the individual ultimately accountable for operation of the fiscal intermediary; and for a not-for-profit entity, the number of director positions set by the company's by-laws, and how many are currently filled;

(D) a history of the organization, along with an overview of the organization and all services it offers, including any relationships with outside agencies that may influence in any way the ability of the organization to provide fiscal intermediary services consistent with the manner described in its application;

(E) all policies and procedures of the fiscal intermediary, including any contracts or other documents used in communications with consumers;

(F) plans to solicit and consider input from the fiscal intermediary's consumers, staff, personal assistants and other interested parties which may be charged with roles including, but not limited to, quality assurance review, referral, program monitoring or development or establishing and responding to community needs; such input may be in the form of a board of directors, committee, survey, or other mechanism, provided that the majority of input obtained as part of this process must be from individual consumers and consumer advocates of the fiscal intermediary;

(G) the organization's plan to address the needs of consumers and their personal assistants in a timely manner, regardless of where they live, including, but not limited to, input from consumers, obtaining physicals and other health information from personal assistants, obtaining time records for payroll, and timely processing of payroll; and

(H) a written sworn statement by an officer of the entity disclosing any pending litigation, unsatisfied judgments or penalties, convictions for fraud or sanctions imposed by government authorities.

(ii) The entity shall reasonably promptly notify the department of any change in the information submitted to the department for authorization under this subdivision.

(iii) The commissioner shall not withhold approval of any application for authorization that demonstrates the fiscal intermediary's ability to provide fiscal intermediary services, in accordance with the manner required by this subdivision and the rules and regulations hereunder. All such applications shall be approved by the commissioner.

(iv) If the commissioner denies an application for authorization, he or she shall include a narrative explanation of the reason or reasons for its denial and provide the fiscal intermediary with sixty days to submit additional information for reconsideration by the commissioner.

(v) The commissioner shall consider and evaluate any response received by the fiscal intermediary before reaching a final determination, which likewise shall be accompanied by a narrative explanation, if the application is still denied.

(vi) All orders or determinations under this subdivision shall be subject to review as provided in article seventy-eight of the civil practice law and rules.

§ 2. Subparagraphs (i) and (ii) of paragraph (a) of subdivision 4-a of section 365-f of the social services law, as amended by section 1 of part HH of chapter 57 of the laws of 2024, are amended to read as follows:

(i) "Statewide fiscal intermediary" means an entity that provides fiscal intermediary services and has a contract for providing such services with [~~the department of health and is selected through the procurement process described in paragraph (b) of this subdivision.~~]:

(A) a local department of social services; an organization licensed under article forty-four of the public health law; or

(B) an accountable care organization certified under article twenty-nine-E of the public health law or an integrated delivery system composed primarily of health care providers recognized by the department as a performing provider system under the delivery system reform incentive payment program.

(ii) Fiscal intermediary services shall include the following services, performed on behalf of the consumer to facilitate the consumer's role as the employer:

(A) wage and benefit processing for consumer directed personal assistants;

(B) processing all income tax and other required wage withholdings;

(C) complying with workers' compensation, disability and unemployment requirements;

(D) maintaining personnel records for each consumer directed personal assistant, including time records and other documentation needed for wages and benefit processing and a copy of the medical documentation required pursuant to regulations established by the commissioner;

(E) ensuring that the health status of each consumer directed personal assistant is assessed prior to service delivery pursuant to regulations issued by the commissioner;

(F) maintaining records of service authorizations or reauthorizations;

(G) monitoring the consumer's or, if applicable, the designated representative's continuing ability to fulfill the consumer's responsibilities under the program and promptly notifying the authorizing entity of any circumstance that may affect the consumer's or, if applicable, the designated representative's ability to fulfill such responsibilities;

(H) complying with regulations established by the commissioner specifying the responsibilities of fiscal intermediaries providing services under this title;

(I) entering into a department approved memorandum of understanding with the consumer that describes the parties' responsibilities under this program[~~; and~~

~~(J) other related responsibilities which may include, as determined by the commissioner, assisting consumers to perform the consumers' responsibilities under this section and department regulations in a manner that does not infringe upon the consumer's responsibilities and self-direction~~].

§ 3. Paragraph (c) of subdivision 4-d of section 365-f of the social services law, as added by section 7 of part G of chapter 57 of the laws of 2019, is amended to read as follows:

(c) Where a fiscal intermediary is suspending or ceasing operation pursuant to an order under subdivision four-b of this section, [~~or has failed to submit an offer for a contract, or has been denied a contract under this section,~~] all the provisions of this subdivision shall apply except subparagraph (i) of paragraph (a) of this subdivision, notice of which to all parties shall be provided by the department as appropriate.

§ 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2025.