

STATE OF NEW YORK

9285

IN SENATE

May 12, 2022

Introduced by Sen. SERINO -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT in relation to directing the commissioner of the office of children and family services to establish a "Consumer Directed Childcare Pilot Program" in certain counties

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

1 Section 1. Consumer Directed Childcare Pilot Program established. The
2 commissioner of the office of children and family services is hereby
3 directed to establish a "Consumer Directed Childcare Pilot Program",
4 within amounts appropriated therefor, in up to five counties in accord-
5 ance with the provisions of this act.

6 § 2. Definitions. For the purposes of this act, the following terms
7 shall have the following meanings:

8 (a) "Commissioner" shall mean the commissioner of the office of chil-
9 dren and family services.

10 (b) "Childcare provider", or "provider", shall mean an individual who
11 has obtained an individual unique identifier from the commissioner to
12 provide childcare services to an eligible family or an eligible family's
13 designated representative in accordance with such family's or represen-
14 tative's instruction, supervision, and direction.

15 (c) "Eligible family" shall mean an individual who is a parent or
16 guardian of one or more minor children who:

17 (i) is not eligible for any state or federal funding or grant programs
18 for childcare services;

19 (ii) meets such financial guidelines as established by the commission-
20 er; and

21 (iii) meets such other criteria, as may be established by the commis-
22 sioner, which are necessary to effectively implement the objectives of
23 the program.

24 (d) "Program" shall mean the Consumer Directed Childcare Pilot Program
25 established by the commissioner pursuant to this act.

26 (e) "Office" shall mean the office of children and family services.

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

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1 § 3. Administration. The program shall be administered by the local
2 social services district in counties having a population of not less
3 than one hundred sixty thousand and not more than three hundred thousand
4 persons according to the 2020 United States Census. Such social services
5 districts shall file an implementation plan with the commissioner, which
6 shall be updated annually. The office shall require that such implemen-
7 tation plans include, at a minimum, district enrollment targets and a
8 description of the methods for the provision of notice and assistance to
9 families who are eligible for enrollment in the program, and such other
10 information as may be required by the office. The office shall provide
11 guidance to such counties to ensure compliance and meet program goals.
12 The office shall also provide technical assistance and such other
13 assistance as may be necessary to assist such local social service
14 districts in ensuring access to the program for eligible families.

15 § 4. Division of responsibilities. (a) Each eligible family who elects
16 to participate in the program shall assume such responsibility for
17 services under the program as are mutually agreed to by the eligible
18 family and the childcare provider and documented in such eligible fami-
19 ly's record, including, but not limited to, the recruitment, hiring and
20 supervision of such childcare provider.

21 (b) An immediate family member or designated representative may not be
22 the childcare provider for the eligible family. However, a childcare
23 provider may include any other adult relative of the eligible family,
24 provided that the commissioner determines that the services provided by
25 such relative are consistent with the program requirements.

26 (c) A childcare provider shall not be liable for fulfillment of
27 responsibilities agreed to be undertaken by the eligible family.

28 § 5. Participating providers. Any agency or individual that meets the
29 qualifications required to provide childcare services and who elect to
30 provide such services to eligible families may participate in the
31 program.

32 § 6. Fiscal intermediary services. (a) The office shall contract with
33 fiscal intermediaries to perform the following services:

- 34 (i) wage and benefit processing for childcare providers;
- 35 (ii) processing income tax and other required wage withholdings;
- 36 (iii) compliance with workers' compensation, disability and unemploy-
37 ment requirements;
- 38 (iv) maintenance of personnel records for each consumer directed
39 childcare provider, including time records and other documentation need-
40 ed for wages and benefit processing and copies of such other documenta-
41 tion as may be required pursuant to regulations established by the
42 commissioner for such purpose;
- 43 (v) provision for the assessment of the health status of each consumer
44 directed childcare provider prior to delivery of services in accordance
45 with regulations established by the commissioner;
- 46 (vi) maintenance of records of service provider authorizations;
- 47 (vii) monitoring the eligible family's or, if applicable, the desig-
48 nated representative's continuing ability to fulfill such family's or
49 representative's responsibilities under the program, and promptly noti-
50 fying the authorizing entity of any circumstance that may affect the
51 eligible family's or, if applicable, the designated representative's
52 ability to fulfill such responsibilities;
- 53 (viii) entering into an memorandum of understanding with the eligible
54 family and approved by the office that describes the parties' responsi-
55 bilities under the program; and

1 (ix) such other related responsibilities as may be determined by the
2 commissioner, which may include, assisting eligible families with the
3 performance of such eligible family's responsibilities under the program
4 in a manner that does not infringe upon the eligible family's responsi-
5 bilities and self-direction.

6 (b) A fiscal intermediary shall not be responsible for, and fiscal
7 intermediary services shall not include, fulfillment of the responsibil-
8 ities of the eligible family or, if applicable, the family's designated
9 representative as are established by the commissioner. A fiscal interme-
10 diary's responsibilities shall not include, and a fiscal intermediary
11 shall not engage in:

12 (i) the management of any services provided by childcare providers
13 pursuant to the program, including recruitment and hiring of childcare
14 providers;

15 (ii) the training, supervision and scheduling of childcare providers,
16 termination of a childcare provider's employment, or the provision of
17 any assurance or representation by the intermediary with respect to the
18 competence or safety of any childcare services performed pursuant to the
19 program.

20 (c) A fiscal intermediary shall exercise reasonable care in properly
21 carrying out its responsibilities under the program.

22 § 7. This act shall take immediately.