STATE OF NEW YORK

9404

IN ASSEMBLY

March 6, 2024

Introduced by M. of A. SLATER -- read once and referred 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:

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

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

(a) "Commissioner" shall mean the commissioner of the office of children and family services.

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

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

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

(ii) meets such financial guidelines as established by the commissioner; and

(iii) meets such other criteria, as may be established by the commissioner, which are necessary to effectively implement the objectives of the program.

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

(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.

LBD09150-01-3

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

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

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

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

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

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

(i) wage and benefit processing for childcare providers;

(ii) processing income tax and other required wage withholdings;

(iii) compliance with workers' compensation, disability and unemployment requirements;

(iv) maintenance of personnel records for each consumer directed childcare provider, including time records and other documentation needed for wages and benefit processing and copies of such other documentation as may be required pursuant to regulations established by the commissioner for such purpose;

(v) provision for the assessment of the health status of each consumer directed childcare provider prior to delivery of services in accordance with regulations established by the commissioner;

(vi) maintenance of records of service provider authorizations;

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

(viii) entering into an memorandum of understanding with the eligible family and approved by the office that describes the parties' responsibilities under the program; and

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

(b) A fiscal intermediary shall not be responsible for, and fiscal intermediary services shall not include, fulfillment of the responsibilities of the eligible family or, if applicable, the family's designated representative as are established by the commissioner. A fiscal intermediary's responsibilities shall not include, and a fiscal intermediary shall not engage in:

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

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

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

§ 7. This act shall take immediately.