STATE OF NEW YORK

9142

IN SENATE

February 5, 2026

Introduced by Sen. COMRIE -- 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 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:

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 Paragraph (c) of subdivision 4-a of section 365-f of the social services law is REPEALED and a new paragraph (c) is added to read as follows:

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

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

(iii) The data to be reported shall include, but not be limited to:

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

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

services; the percentage for language and Americans with Disabilities Act related accessibility; the percentage used as profit and distributed to individual owners; parent or subsidiary corporations; equity holders; shareholders; or any other ownership entity or individual in cash, dividends or other payments, including digital currency; and any other measures determined by the commissioner;

(3) in the event of advance payment to the statewide fiscal intermediary for services rendered, the amount of the reconciliation amount at the close of each month in the reporting period;

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

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

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

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

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

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

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

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

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

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

(I) the consumer had an invalid authorization but the personal assistant still worked;

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

(III) the consumer was in the hospital or another setting that disallowed billing; and

(IV) other reasons determined by the commissioner.

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

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

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

(3) the wage on a per hour basis of consumer directed personal assistants;

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

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

(6) the number of hours registered within the statewide fiscal intermediary's time and attendance system;

(7) the number of hours and wages paid by the statewide fiscal intermediary to consumer directed personal assistants per payroll period;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) To ensure that consumers and consumer directed personal assistants in the program receive high quality services, the statewide fiscal intermediary shall provide data regarding customer service requests, 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;

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

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

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

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

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

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

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

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

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

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

(V) are offered the opportunity to enroll with their previous subcontracted facilitator but opt to enroll only with the statewide fiscal intermediary;

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

(VII) any other criteria the commissioner may establish;

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

(I) how many of those consumers go to a different subcontracted facilitator;

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

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

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

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

(10) any other data as may be determined necessary by the commissioner.

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

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

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

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

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

(5) the number of consumers reported to the attorney general's Medicaid fraud control unit, or any successor unit, for suspected fraud;

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

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

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

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

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

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

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

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