



NEW YORK STATE SENATOR

Gustavo Rivera

## Senator Gustavo Rivera Introduces Bill to Establish Licensure Process for Fiscal Intermediaries (FIs) of the Consumer Directed Personal Assistance Program (CDPAP)

GUSTAVO RIVERA September 5, 2024

| ISSUE: **CDPAP, ACCESS TO HEALTHCARE, HEALTH**

State Senator Gustavo Rivera (SD-33) introduced [legislation](#) that would establish a licensure process and requirements for fiscal intermediaries (FIs) to continue operating in the Consumer Directed Personal Assistance Program (CDPAP) under Medicaid, and to repeal the transition to a single fiscal intermediary for the state. This legislation is intended to address concerns that have been raised about utilization and transparency in the operation of CDPAP while minimizing potential disruption to Medicaid enrollees receiving services and to workers providing services under the program during an increasingly truncated timeframe.

The Consumer Directed Personal Assistance Program (CDPAP) is essential to delivering long term care services to New Yorkers who wish to have a choice in who their caretaker is and want to remain in their homes and communities. Due to shifting demographics, and New York's Medicaid benefits including long-term care services, increased demand has created financial pressures for the State as it strives to continue providing these services to a larger population of older New Yorkers as well as beneficiaries with disabilities. The State has taken various actions to directly reduce overall spending under the Medicaid program, with a particular attention to the popular CDPA program which has experienced rapid utilization

and cost growth.

Since 2019, the statute governing who can act as a fiscal intermediary has been changed on four separate occasions. The timeframe for the most recent change requires a new statewide fiscal intermediary to be selected and for all consumers and personal care assistants to be transferred from hundreds of different fiscal intermediaries by April 1, 2025. While the quick implementation of policy is laudable, it is highly likely that this timeframe will either be unattainable or result in significant disruptions to critical services needed by New Yorkers. Additionally, years of litigation and current lawsuits jeopardize the trajectory of these policy reforms. Senator Rivera's bill provides a long-term solution to ensure oversight, accountability, and transparency from fiscal intermediaries to protect program participants, care workers, and Medicaid dollars.

"This bill represents a compromise of positions by balancing program integrity, access to services, consistency in fiscal intermediary operations, and economic opportunity. By establishing a uniform licensing process for fiscal intermediaries, they can demonstrate their character and competence, as well as their compliance with applicable state and federal laws and regulations to continue operating in this innovative and popular program," said **State Senator Gustavo Rivera, Chair of the Senate Health Committee and sponsor of the bill**. "It is critical that we continue to protect access to this program for all New Yorkers who currently benefit or will benefit from it, and this bill establishes a timeframe that gives the Commissioner of Health and the Department of Health the flexibility needed to minimize disruptions in service. We need to restore stability to the program and it is my hope that this legislation can serve as a framework to accomplish that."

CDPAP allows people to choose workers they are comfortable with, some of whom are their own family members, and who provide a higher level of trust and confidence due to linguistic or cultural competency. Family members often provide unpaid care work to

relatives in need. The program ensures that family members can be paid for care work, which is a particularly important issue for women that represent the majority of family caregivers and helps address a long history of women having to choose to leave the workforce to provide care. Reliable home care services help New Yorkers in need avoid unnecessary hospitalizations and stays in institutional settings. A diverse network of fiscal intermediaries (FIs) work within the program to provide administrative support and help Medicaid enrollees navigate the system with greater ease and they would be held to a higher standard with the passage of Senator Rivera's bill.

**Summary of specific provisions of the bill:**

- Repeal all language associated with the transition to a single fiscal intermediary under the CDPAP program.
  
- Require all fiscal intermediaries (FIs), including those that provide services through Medicaid Managed Care (MMC), to report on additional metrics including: the number of members served; the FI's service area; the number of personal assistants employed by consumers and the hours and dates they worked, as well as any relationship the personal assistant has with the consumer; the number of total hours consumers are authorized to receive services and the amount of hours billed for; the self-directing status of the consumer; and any additional information as determined by the Commissioner of Health (COH).
  
- Require that on and after April 1, 2026, all FIs must be licensed in order to provide fiscal intermediary services. The language allows the Commissioner of Health to have the flexibility to grant FIs the ability to operate temporarily if their licensure application is still under review, or if the unlicensed FI is winding down operations and consumers and/or workers are transitioning to another licensed FI.

- Direct the Commissioner of Health to make regulations and issue guidance to ensure an orderly transition of consumers and personal care assistants from FIs that are ceasing operations.
- Establish a process for FIs to become licensed.
- Require as a condition of licensure and participation in Medicaid that fiscal intermediaries are prohibited from advertising their services to Medicaid enrollees.
- Establish that the Commissioner may take corrective actions against fiscal intermediaries that fail to comply with the statute or any regulations or rules made thereunder.
- Require that FIs pay a one-time \$10,000 licensure fee.
- Establish a registry for personal assistants maintained by the Department of Health (DOH).
- Establish a process for the revocation, suspension, limitation or annulment of an FI's license by the COH.
- Modify the current workgroup of FI services to expand the scope of activities they review and require an annual report on such information beginning on December 1, 2025.
- Authorize the COH to establish minimum training requirements for personal assistants to effectively and safely provide care to consumers.
- Authorize the Comptroller to review any contract entered into by an FI.

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RELATED LEGISLATION

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## 2023-S9901

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- Introduced
- - In Committee Assembly
  - In Committee Senate
- - On Floor Calendar Assembly
  - On Floor Calendar Senate
- - Passed Assembly
  - Passed Senate
- Delivered to Governor
- Signed By Governor
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Relates to licensure requirements for fiscal intermediaries; repealer

September 06, 2024

In Senate Committee [Rules](#)

Sponsored by [Gustavo Rivera](#)

Do you support this bill?