

Testimony of 1199SEIU United Healthcare Workers East

Joint Public Hearing: Consumer Directed Personal Assistance Program, August 21, 2025

Our local union, 1199SEIU United Healthcare Workers East, has historically represented consumer-directed workers in New York State and currently represents over 80,000 consumer-directed workers in Massachusetts. Our International Union, SEIU, represents over 650,000 consumer-directed workers in nine states, including Washington, Pennsylvania and Connecticut. As we have remarked in previous testimony, this experience, including a familiarity with transitioning to a single, statewide fiscal intermediary, has allowed us to identify both challenges and best practices nationally.

We made previous recommendations on the transition that included lengthening the implementation timeline, undertaking concerted outreach to both consumers and caregivers and strengthening the roles of the Centers for Independent Living and other facilitators who have deep knowledge about the Consumer Directed Personal Assistance Program (CDPAP) regulatory and consumer landscape. The concerns that we raised proved accurate as the transition unfolded.

We will focus our testimony today on the structural issues that made the transition more difficult, as well as the problems that must still be addressed.

Timeline and technical capabilities

The April 1st deadline was set by the budget legislation which mandated the transition to a single statewide fiscal intermediary (FI). The five-month period from the awarding of the contract to the transitioning over 300,000 consumers was not realistically achievable and did not allow for systems to be tested and scaled up. It would have been much more preferable to begin the transition with a smaller cohort of consumers – learning the issues that would be challenging for both consumers and PAs – and then expand into the larger CDPAP population.

PPL was not fully prepared to respond and manage the scale or nuances of New York's CDPAP. Many consumers were used to paper timesheets and intensive support from their old FIs, in part because of the financial incentives for consumer and worker recruitment built into the old system. Some of the old FIs allowed time sheets to be submitted without consumer approval. The move to an online payroll system, which should allow for better controls and prompt payments, proved challenging for some consumers. PPL made assumptions about the technical capabilities of consumers to access information online

or through their app, based on their experience in other states, which did not fully apply to New York.

PPL also was unable to live up to expectations to ensure that all consumers would receive communications regardless of their spoken language or access to technology. Rather than building the necessary infrastructure to ensure multi-language communication via call-centers, online and through the mail, PPL relied too heavily on translation services. Even then, documents were often only easily available in a handful of languages.

With the expedited timeline, PPL was charged with rapidly building the staff infrastructure to ensure that every consumer received the information and assistance necessary to successfully transition from their FI to PPL. However, the call centers had limited hours, even at the peak of the transition, leading to long hold times. When a consumer was able to speak directly with call center staff, PPL staff were not always able to correctly address the problem or give consistent and accurate information to consumers.

PPL would also benefit from more effectively utilizing the deep institutional knowledge and cultural competencies of its facilitator partners. The authorizing legislation required the conversion of the Independent Living Centers and some high-performing former FIs into facilitators, but their use has been uneven, and they have only recently been able to access payroll information to assist workers in addition to consumers.

Community-based facilitators must be the core support system for both consumers and workers. Both PPL and the state must ensure that there is a robust network of high-quality facilitators and that they are appropriately compensated for their work. Enhanced use of the network of facilitators could also help the highest need consumers obtain additional support. In addition, with nearly half of consumers not choosing a facilitator, PPL must also ensure that it has the internal infrastructure necessary to support the largest and most diverse consumer-directed program in the country. This includes call center support and outreach to consumers that recognize variations in language spoken and access to technology.

Misinformation and Behavior of FIs

Many sponsors of the hundreds of pre-existing FIs are also owners of Licensed Home Care Services Agencies (LHCSAs). When the personal care program, including CDPAP, was moved from county-run programs to managed long term care, these LHCSAs helped drive growth in the CDPAP program because it was more financially beneficial to them. This process then happened in reverse when they were threatened with the loss of fiscal

intermediary business. In too many cases, this was without regard for which program best served the consumer's needs.

For example, we met a worker during the transition whose consumer had dementia and was unable to approve the time sheet as required. With no designated representative, this consumer was not an appropriate candidate for CDPAP but had been kept in the program by their previous FI. There is also evidence of FIs actively misinforming consumers, telling them that they had to switch to LHCSA services in order to keep their personal assistant.

Some former FIs continue to try to capture CDPAP business. Paramount Home Care, for example is running ads online and in subway stations saying, "Get Paid to Take Care of Your Friends, Family & Neighbors" with a small asterisk making it clear that immediate family members are not eligible. Presumably, those who respond to the ad will not be told they could begin working right away through CDPAP and instead be required by Paramount to take personal care aide training through their LHCSA. The financial impetus for this behavior is straightforward: Paramount had Medicaid revenue of over \$60 million in their latest financial report and paid their CEO over \$1 million.

We strongly urge the state to audit the training and background check records of LHCSAs, which grew substantially during the CDPAP transition. While consumers have the right to switch services, providers should not be allowed to misinform consumers or undermine the requirements of LHCSA services, including the required 60-75 hours of aide training. If a LHCSA is found to have deliberately misinformed consumers or hired workers without the required training, they should be disqualified from providing Medicaid services.

Data Gaps

Most Medicaid home care consumers in New York are required to enroll in managed care, and most of those are in partially-capitated managed long term care plans (MLTCPs) which only manage their Medicaid benefits. Home care services are the vast majority of services paid for by MLTCPs. Despite this, it became clear through the transition that the plans had difficulty sharing accurate, real-time data regarding their enrolled consumers, and did not always have accurate contact information for them. In addition, the former fiscal intermediaries were the only organizations who had contact information for the workers serving CDPAP consumers, and a number resisted sharing that information.

These data gaps made it difficult to maintain accurate lists of consumers who were authorized for services but who were not yet enrolled, or whose workers were not enrolled. In addition, the data was changing rapidly, as former FIs sought to shift consumers to

LHCSA. This was on top of the normal changes in authorizations and services – for example, if consumers are admitted to the hospital.

We question whether the Medicaid program is receiving enough value from the resources spent on the partially-capitated MLTCP program, given the challenges that were revealed in the transition. Moving to a managed fee-for-service model could allow for greater transparency, including real-time access to crucial utilization and other data. As any structural changes are considered, the state should hold plans accountable for quickly and accurately communicating service authorization and other data to providers, including the statewide FI.

Failure to Ensure Workers Are Paid Accurately

Workers have made numerous complaints that they have not been paid timely, correctly or at all for hours worked. In our conversations with thousands of consumer-directed workers, we have identified a range of problems which much be addressed.

These problems are due to a number of factors and are not entirely new. As has been well-documented, there were numerous instances of wage theft, illegal bans on overtime, and other pay problems with the former fiscal intermediaries. The state now has considerably more tools to hold a single, statewide FI accountable for paying workers correctly and legally, and must do so through its contracting and oversight powers.

One major issue is that PPL's single, standardized payroll system pends workers from being paid if they work beyond the consumers' authorized hours or if the authorization has lapsed. In consumer-directed systems, a consumer is responsible for scheduling workers but not for paying them, and a fiscal intermediary pays but does not schedule. The FI must have a system to appropriately manage this divergence in responsibilities. The burden for these issues cannot fall on the worker, in violation of New York's labor law. When there is a lapsed authorization or a consumer directs a worker to work beyond their authorized hours, the FI and its facilitators must quickly reach out to consumers, make sure they understand the authorization issues and support them in seeking authorization for additional hours as necessary. As it works to align authorizations and hours, PPL must pay workers promptly for actual hours worked.

Similarly, there are limited instances when two workers must overlap to complete a care task or share information, and PPL must pay both workers for time worked, even if they can only bill for one. And, as several lawsuits allege, PPL's system may be incorrectly paying for certain types of shifts, for example when a worker's overnight shifts cross two days. According to New York's labor law, workers are due spread of hours payments for long

shifts. While PPL pays for spread of hours, there is some evidence it is not correctly doing so for overnight shifts. Any systemic underpayments like these must be immediately corrected.

While PPLs' network of subcontractor facilitators throughout New York could aid consumers during the transition, very little support existed for workers in the CDPAP system. Until very recently, when facilitators got access to the payroll system, workers found themselves reliant on the PPL call lines, and when they were able to access staff, they were sometimes provided with conflicting information. Workers must be able to get support from PPL or facilitators to quickly correct any pay issues they experience.

Wage and Benefit Standards

The wide variation in benefits offered by the previous FIs has also created difficulties in the transition. Some former FIs did not acknowledge that they were joint employers subject to the Affordable Care Act and other employer requirements. The new single FI is required to do so. To meet its minimum obligations under the law, PPL chose to offer a bronze level health insurance plan. These type of plans, with high deductibles, are not affordable for low-wage workers. While the majority of CDPAP workers were not offered health insurance by their former FIs, some workers did have better, more comprehensive insurance and lost access to it in the transition. Going forward, PPL must improve the health insurance offered to PAs to reduce barriers to access.

In addition, some former FIs offered better fringe benefits, including holiday pay or paid time off, than PPL is currently offering. As workers organize and seek to bargain collectively, they can push for higher standards. In the short term, PPL should offer to match fringe benefits from the previous FI to ensure that consumers can retain their long-term workers.

Opportunities to Improve CDPAP

The transition to a single statewide FI can be an opportunity for reform that benefits CDPAP consumers and workers. The hundreds of millions of dollars in administrative payments to hundreds of for-profit FIs – much of which went into the pockets of owners enriching themselves from the Medicaid program – can be reinvested in services for consumers. These could include additional payments for workers serving high-need consumers, as 1199SEIU members have bargained for in Massachusetts, or a statewide registry similar to the one in Washington State that allows consumers and workers to find each other.