



## **Invitation and Requirements for Licensed Home Care Services Agencies to Participate in the NY State of Health Private Pay Home Care Services Pilot Program**

Below are responses to questions received regarding the [NY State of Health Invitation and Requirements for Licensed Home Care Services Agencies to Participate in the NY State of Health Private Pay Home Care Services Pilot Program](#) (Pilot Program). This Q and A document will continue to be updated as additional questions are received.

### **Questions and Answers August 5, 2020**

- 1. Question: To meet the eligibility criteria to be licensed to provide personal care, house-keeping, home-maker, and home health aide services, is a LHCSA's license required to specifically mention each of these services?**

**Answer:** To be eligible, LHCSAs must be licensed to provide personal care, home health aide, home maker and housekeeping services. The license does not specifically need to list housekeeping and home-maker so long as these can be provided within the scope of services the LHCSA is licensed and authorized to provide.

- 2. Question: How do you plan to implement real time updates of home health aide availability?**

**Answer:** LHCSAs will be required to update information about worker availability through a provider management dashboard. Onboarding and training will be provided to LHCSAs prior to implementation of the pilot program.

- 3. Question: The invitation states that LHCSAs approved for this pilot will agree to "accept all consumers who access services through the pilot, except where it is determined that the consumer cannot be served safely at home." Can we assess for financial appropriateness as well as clinical appropriateness?**

**Answer:** There is no financial test to be eligible to purchase services through the pilot; however, LHCSAs will be expected to educate consumers as they do today about public health insurance programs for which they may be eligible.

- 4. Question: If a LHCSA operator holds two licenses with two different license numbers with overlapping counties but one license includes Nassau and the other includes Westchester, is the LHCSA required to submit one participation proposal for each license.**

**Answer:** A LHCSA operator holding more than one license in the pilot area may submit one participation proposal. However, if the operator's licenses in the pilot area are held by different subsidiary or affiliate entities, the LHCSA operator must list each license and office location, and delineate the corporate/legal relationship between the operator any separate legal entities holding a license(s). Each licensee must meet the qualifications to participate in the pilot program.

- 5. Question: May two (2) LHCSAs be deemed an “Eligible Applicant” if they respond to the Invitation as co-applicants and one LHCSA is licensed in Nassau and Suffolk counties and the other LHCSA is licensed in Westchester County and one LHCSA has 200 employees and the other LHCSA has 175 employees.**

**Answer:** As outlined in the response to Question “4” above, a LHCSA operator holding more than one license in the pilot area through subsidiary or affiliate entities may submit one participation proposal. However, if the operator’s licenses in the pilot area are held by different subsidiary or affiliate entities, the LHCSA operator must list each license and office location, and delineate the corporate/legal relationship between the operator any separate legal entities holding a license(s). Each licensee must meet the qualifications to participate in the pilot program.

Separate LHCSA operators (those with no common corporate relationship) must submit separate participation proposals.

- 6. Question: What documentation of state required in-service training is required? Does this include the actual training material or just the in-service training schedule and course offerings?**

**Answer:** LHCSAs must provide proof that state required in-service training is being offered and employees are in compliance. This requirement can be satisfied by including your training offerings, training schedule, a recent record of completions (e.g., a download from a Learning Management System) and a list of other additional trainings being offered to home care aides including, but not limited to, dementia care or other disease conditions.

- 7. Question: Will anyone but the Department of Health (DOH or the Department) have access to the names, of the home health aides employed by agencies under Freedom of Information Law (FOIL)?**

**Answer:** By applying to participate in the Pilot Program, LHCSAs agree that the names of aides they employ will appear on the website for a consumer to review and select. The names of aides will appear by first name.

As part of the application to participate in the Pilot Program, LHCSAs must provide names of individual aides to DOH’s Contractor(s), to allow the names to be populated on the website, and to be updated as necessary. As the list of names provided by the LHCSA to the Contractor(s) may be subject to review by DOH to operate the pilot program, the names of the aides would be subject to the Freedom of Information Law.

- 8. Question: Will the names of home health aides available to provide services be disclosed on this website?**

**Answer:** Yes, as noted in # 7 above, the first names of the home health aides will be included in the search results through the website application tool.

**9. Question: If the agency does not have CHAP or JACHO accreditation, will they still be considered?**

**Answer:** There is no accreditation requirement at this time. In Attachment B, Line: “Accreditation Agency and Date” may be completed as “N/A.”

**10. Question: Will the rates for services provided have any impact on which LHCSAs are approved for participation?**

**Answer:** No. All LHCSAs that meet the criteria outlined in the Invitation will be approved to participate in the pilot program. While the specific rates offered are not an eligibility criterion, the rates will be shown on the website for the consumer to consider as they deem appropriate when shopping for services. LHCSAs are encouraged to offer consumers preferential rates through this pilot program.

**11. Question: Are you required to have Department of Social Services contracts in all three counties?**

**Answer:** No. The eligibility requirement is to be enrolled in NY Medicaid, render services to Medicaid fee-for-service members, and have a contract with one or more Medicaid Managed Long Term Care plan(s) serving *one or more* of the counties in the pilot area.

**12. Question: Please explain what is meant by “store and forward technology” on page 4 of the Invitation.**

**Answer:** Store-and-forward technology refers to electronic transmission of a patient's health information in the form of patient-specific digital images and/or pre-recorded videos from a provider at an originating site to a telehealth provider at a distant site. For example, a picture of a bed sore sent to a physician by the LHCSA.

**13. Question: While some LHCSAs currently provide remote patient monitoring and store and forward technology, it is our understanding that DOH does not currently license LHCSAs to provide remote patient monitoring and store and forward technology. How should LHCSAs respond to Question 4 in Attachment B?**

**Answer:** LHCSAs are permitted and encouraged to offer these telehealth services at the consumer’s option. LHCSAs that offer remote patient monitoring or store and forward technology should answer “Yes” to question 4 in Attachment B. (An updated version of Attachment B has been posted to the NY State of Health website: <https://info.nystateofhealth.ny.gov/lhcsainvitation>)

**14. Question: Are rates for the private pay market subject to wage parity?**

**Answer:** No. The Home Care Worker Wage Parity terms of section 3614-c of the Public Health Law do not apply to the private pay services provided under this pilot. However, applicants are required to comply with all federal and state wage and hour laws.

**15. Question: What does the Department mean by “preferential rates”? When would these apply?**

**Answer:** Through the pilot, applicants are encouraged to offer consumers a preferential, or discounted, rate as compared to the rates they currently or would otherwise offer private pay consumers. Discounted rates, for example, could be based on a sliding scale related to the number of hours purchased by the consumers, or other factors, provided that these factors are consistent with applicable rules or requirements.

If a preferential rate is provided, applicants are asked to indicate the conditions, if any, a private pay consumer referred through the pilot must meet to qualify for the preferential rate. This information should be included with the Participation Proposal, Exhibit 1 and it will appear on the website for consumers to consider as they deem appropriate when shopping for services.

**16. Question: What does the Department mean by “conditions” required for the preferential rates to apply? Specifically, what does this mean when it comes to telemedicine modalities for rendering home health services?**

**Answer:** The “conditions” required to be offered preferential rates requested in Exhibit 1 refers to the terms under which the LHCSA will offer a preferential, or discounted, rate to consumers as explained in the response to Question 15 above. A preferential rate for remote patient monitoring might, for example, be offered in conjunction with a minimum number of hours of services.

**17. Question: Is there flexibility to the requirement that agencies have a minimum of 350 employees?**

**Answer:** As outlined in the Invitation to Participate, for the purposes of the pilot, agencies must have a minimum of 350 employees who have certification to provide personal care, house-keeping, home-maker, or home health aide services across the counties in the pilot area. It is expected that there will be fluctuations in the number of employees over time, and especially in light of the COVID-19 public health emergency. Accordingly, DOH will consider the requirement as being satisfied if the agency has employed the requisite number of individuals at any point over the most recent 12-month period.

Additionally, LHCSAs that have an employee count within 10% of the required minimum number of employees over the most recent 12 month period and that meet all other eligibility criteria are encouraged to submit a participation proposal. In their proposal, these LHCSAs must include an explanation of the features that make them especially suitable to participate in this pilot program. These features are expected to include a detailed description of how they offer the optional, preferred elements outlined in the Invitation: additional training program that includes, but is not limited to, dementia care or other disease conditions; the capacity to offer remote patient monitoring and store and forward technology; and the ability to meet language access and cultural competency needs of consumers in the pilot area. DOH reserves the right to grant exceptions to this specific requirement regarding the minimum number of employees on a case-by-case basis when it determines that granting such exception is non-discriminatory, promotes access, and in the best interest of consumers.

**18. Question: Is there a maximum number of agencies that can participate in the pilot?**

**Answer:** There is no limit on the number of qualified agencies that can participate. All LHCSAs that meet the requirements for participation will be approved to participate, subject to agreeing to a contract with DOH.

**19. Question: When does DOH expect to expand this program to other counties?**

**Answer:** The timing for expansion to other counties has not yet been determined, but the intent is to expand the program statewide based on the success of the current pilot. As the program expands, there will be additional opportunity to submit interest in participating.

**20. Question: Please confirm that consumers will have to work with home care agencies to select an appropriate aide and won't contact any aides without first working with the agency?**

**Answer:** As designed, the NY State of Health web-application tool will direct consumers to the LHCSAs participating in the pilot. Also, the NY State of Health will not provide information or communication channels for the consumer to contact an aide directly.

**21. Question: Will DOH accept "good faith" efforts by agencies to keep the information about the availability of home care aides current on their website as this information changes daily and sometimes more than daily?**

**Answer:** This standard will be defined in the agreement between DOH and LHCSA's participating in the pilot program.

**22. Question: Is a LHCSA that is licensed in only one or two of the three pilot counties eligible to participate under the pilot in those one or two counties?**

**Answer:** No. Please refer to the response to Question 1 in the July 29 Q&A below and 13 in the August 5 Q&A above.

**23. Question: Are Certified Home Health Agencies (CHHAs) eligible to participate in this pilot program?**

**Answer:** The Pilot program is focused on personal care services, not skilled nursing services, to facilitate the purchase of services that consumers do not already have health insurance coverage for.

**24. Question: Are LHCSAs eligible to participate in this pilot if they contract with CHHAs and/or managed care plans but do not render services to Medicaid fee-for-service individuals and are not enrolled in Medicaid?**

**Answer:** No. LHCSAs are required to be enrolled in NY Medicaid, render services to Medicaid fee-for-service members, and have a contract with one or more Medicaid Managed Long Term Care



plan(s) serving one or more of the counties in the pilot area to ensure that consumers who transition to Medicaid, including those who spenddown to Medicaid, have continuity of care which is an important element of the design of this program.

- 25. Question: Is a LHCSA required to have 350 or more HHAS who are all willing to work in the three pilot counties or can a LHCSA apply if it has a total of 350 or more HHAs but only a subset of the workers is willing/able to work in those counties?**

**Updated Answer to Question 4, July 29, 2020 Q&A:**

**Answer:** Please see the response to Question 17 in this August 5 Q&A document.

- 26. Question: Can a LHCSA apply if they are only approved for two (2) of the services listed, for example they provide Home Health Aide and Personal Care Aide, but not Home-Maker or House-Keeper?**

**Updated Answer to Question 7, July 29, 2020 Q&A:**

**Answer:** To be eligible, LHCSAs must be licensed to provide personal care, home health aide, home maker and housekeeping services. The license does not specifically need to list housekeeping and home-maker so long as these can be provided within the scope of services the LHCSA is licensed and authorized to provide.

**Questions and Answers**  
**July 29, 2020**

1. **Question: Does the LHCSA have to be authorized to service all three counties or can a LHCSA apply to participate in a single authorized county?**

**Answer:** To be eligible to participate in the Pilot Program, the LHCSA must be licensed, registered and authorized to service *all* three of the following Pilot counties: Nassau, Suffolk and Westchester.

2. **Question: Does the requirement that a LHCSA must be authorized to provide services in all three pilot counties mean that a LHCSA must service the entire county? Or can the LHCSA participate in a certain part of the county, for example, if LHCSA can comfortably service lower Westchester, but not upper Westchester?**

**Answer:** LHCSAs must agree to serve the entire county, consistent with their approval to provide services in a specific county. Applicants may apply to the DOH for an exception to this requirement by submitting a written request to the DOH explaining the facts that justify the exception. The DOH reserves the right to grant exceptions to this requirement on a case-by-case basis when it determines that granting such exception is necessary, non-discriminatory and in the best interest of NY State of Health and consumers.

3. **Question: For the requirement to have 350 employee minimum, is there any requirement for the employees to reside in those counties, or does the LHCSA just need to have a minimum of 350 employees who are able to service the counties? (i.e. LHCSA has means of transporting employees from county to county but employee may not reside within the county where they are working)**

**Answer:** There is no requirement for employees to reside in the Pilot counties.

4. **Question: Is a LHCSA required to have 350 or more HHAS who are all willing to work in the three pilot counties or can a LHCSA apply if it has a total of 350 or more HHAs but only a subset of the workers is willing/able to work in those counties?**

**Answer:** Please refer to Question 25 above in the August 5 Q&A.

5. **Question: Are LHCSAs required to offer remote patient monitoring and store-and-forward technology?**

**Answer:** No, these are optional services. However, as stated in the Invitation, the LHCSA is encouraged to offer these telehealth services.



6. **Question: If a LHCSA is not enrolled in NY Medicaid, and does not render services to Medicaid fee-for-service (FFS) members, is the LHCSA eligible to participate in this Pilot program?**

**Answer:** No, applicants must be enrolled in NY Medicaid, render services to Medicaid fee-for-service consumers, and have a contract with one or more Medicaid Managed Long Term Care plan(s) serving one or more of the counties in the pilot area to be eligible to participate in this Pilot program.

7. **Question: Can a LHCSA apply if they are only approved for two (2) of the services listed, for example they provide Home Health Aide and Personal Care Aide, but not Home-Maker or House-Keeper?**

**Answer:** Please refer to Question 26 above in the August 5 Q&A.