

**TO:** Local District Commissioners, Medicaid Directors

**FROM:** Deborah McClure,  
Director, Bureau of Medicaid Long Term Care Policy  
Division of Program Management and Development

**SUBJECT:** Consumer Directed Personal Assistance Program Aid to Continue

**EFFECTIVE DATE:** Immediately

**CONTACT:** [services@health.ny.gov](mailto:services@health.ny.gov)

The purpose of this GIS is to instruct Local Departments of Social Services (LDSS) about their responsibilities and actions regarding aid to continue for individuals who timely request a hearing when their Consumer Directed Personal Assistance Services (CDPAS) are reduced or discontinued.

When an LDSS has made a decision to reduce or discontinue an individual's CDPAS, and the individual or their designated representative disagrees with the decision, the individual or their designated representative has the right to request a Fair Hearing. Generally, individuals have sixty (60) days from the date of the Notice of Intent to reduce or discontinue services to request a Fair Hearing.

Pursuant to regulation [18 NYCRR 358-3.6](#), individuals also have the right to continue their previously authorized services without interruption until a Fair Hearing decision is issued, as long as the individual requests a Fair Hearing prior to the effective date of a proposed action as contained in the notice of action or within 10 days of the mailing of the agency's notice of the action, whichever is later. For more information on requesting a Fair Hearing and aid to continue, visit [OTDA's Fair Hearing website](#).

If an individual timely requests aid to continue and the NYS Office of Temporary Disability Assistance authorizes, the LDSS must continue the service authorization until the Fair Hearing decision is issued.

Notwithstanding the above directives, the Social Security Act Section 1902(e)(14) waiver regarding fair hearings has been extended through December 31, 2025. Under this waiver, individuals who make a timely request for a hearing will be granted Medicaid aid continuing

automatically for discontinuances or reductions regardless of whether the appellant requests aid continuing or makes an aid continuing request more than 10 days from the notice date.

If the decision following the Fair Hearing is favorable to the individual requesting the fair hearing (Appellant), the LDSS should reauthorize the individual in accordance with the Fair Hearing decision. If the decision from the Fair Hearing is adverse to the Appellant, the LDSS should align the authorization with the Fair Hearing decision to reflect the reduction in authorized hours or end-date to reflect the discontinuance of services. The LDSS should modify the authorization accordingly as soon as possible effective as of the date of the Fair Hearing decision.

In the case where aid to continue is authorized, the statewide fiscal intermediary, Public Partnerships, LLC (PPL), will accept and recognize the validity of such authorization from the LDSS. If the Fair Hearing decision determines that services must continue, PPL will extend the authorization in their system in accordance with the authorization provided by the LDSS. If there is an adverse decision in the Fair Hearing, PPL will reduce the benefit or end-date the authorization in their system in accordance with the authorization provided by the LDSS.

In the event that there is an adverse decision in the Fair Hearing and the individual received aid to continue, the individual may be held financially liable for the services that they received during the aid to continue period. However, through at least December 31, 2025, this responsibility is waived in accordance with the Social Security Act Section 1902(e)(14) waiver regarding fair hearings. Consequently, any aid continuing granted prior to December 31, 2025 is not subject to recoupment, even if the agency's action is sustained by the fair hearing decision.

This GIS is effective immediately.