



Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

February 7, 2025

Via electronic mail

Attorney General Letitia James
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Executive Director, Commission on Ethics and Lobbying in Government
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Dear Attorney General James and Executive Director Berland:

We are writing to request the initiation of a formal investigation by the Attorney General and the Commission on Ethics and Lobbying In Government (COELIG) into what appears to be a concerted effort to shield who is bankrolling a lobbying campaign to spread misinformation and lies about the State's transition to utilize a single Statewide Fiscal Intermediary in the Medicaid Consumer Directed Personal Assistance Program (CDPAP). This multi-million dollar campaign has reportedly been accomplished by flouting the State's ethics and charitable registration laws, and the false information being disseminated is likely to harm the more than 250,000 consumers who use CDPAP and the hundreds of thousands of personal assistants that care for them.

Background

In the 2024-25 State Fiscal Year Enacted Budget, the Legislature passed, and the Governor signed into law, a change in how CDPAP services are to be delivered to consumers in the State. CDPAP is a model of personal care that permits those capable of self-directing, or who have a representative who will direct their care, to choose, hire, schedule, and fire their own caregivers rather than employees of a licensed home care services agency. New York is an extreme national outlier in two areas related to CDPAP: (1) the number of fiscal intermediaries (FIs) providing the administrative tasks associated with CDPAP, such as payroll and maintenance of records; and (2) payments for such administrative services. There are 600-700 FIs operating in the State – far more than all other states combined. Most states have 3 or less; many states have one. The national average for payment of administrative services is approximately \$75 per member, per month. New York currently pays between \$150 to over \$1,000 per member, per month, depending on the acuity of care. That means that New York paid hundreds of millions to FIs for administrative expenses -- not for care given to the consumers -- in the last fiscal year alone, and expects to save \$500 million each year from these changes.

In an effort to establish guardrails and oversight to the program, and root out waste and fraud, State law was amended to allow the Department of Health to procure the services of a single Statewide Fiscal Intermediary, which will subcontract with at least 15 existing FIs. After a procurement process, the Department awarded Public Partnerships LLC (PPL)—which administers 50 consumer directed programs in 21 states, many on a statewide basis—the contract. As of April 1, 2025, no entity other than PPL or its subcontractors may provide FI services. PPL will provide the payroll and other administrative services to every CDPAP consumer’s personal assistants. As is currently the case in the CDPAP program, consumers will be able to freely choose their providers. Additionally, no changes were made to eligibility for the program.

The Issue

Perhaps not surprisingly, these reforms have upset certain FIs that had grown rich on these hundreds of millions in annual administrative expenses, and they are desperately fighting to preserve the status quo. As [reported](#) earlier this week by the publication New York Focus, in an article entitled *Mystery Donor Funds \$10 Million Campaign Against Hochul Home Care Plan*, over the past nine months an entity called the Alliance to Protect Home Care (the “Alliance”) has engaged in an unprecedented advertising campaign, including television ads, social media posts, and targeted mailings employing obvious falsehoods designed to scare CDPAP consumers about the impacts of the new CDPAP structure on their healthcare and to dissuade CDPAP consumers from cooperating with the transition to PPL. **Attachment 1** is a small sampling of the Alliance’s false claims deployed in their advertising campaign.

The Alliance registered with the New York Department of State as a domestic not-for-profit corporation on May 30, 2024 (**Attachment 2**). According to COELIG public records, the Alliance is registered as a lobbyist on behalf of client Consumer Directed Action of New York, Inc. (CDANY) (**Attachment 3**). CDANY registered with the Department of State as a domestic not-for-profit corporation in 2022 (**Attachment 4**) and its internal Executive Director is also its external lobbyist, (**Attachment 5**), a potential conflict of interest.

COELIG public records show that, through the end of 2024, the Alliance has spent \$10,576,094 lobbying on behalf of CDANY, all related to the CDPAP matter (**Attachment 6**). Given that CDPAP is exclusively a Medicaid program, that is an unusually large amount of money to be spent on lobbying; it’s likely that Medicaid dollars are being used to finance this campaign. Indeed, New York Focus reports that it was the second-highest-spending lobbying campaign in Albany in 2024. The article concludes that it is unclear who is bankrolling this spending by the Alliance, because its donations are being routed through another nonprofit that was created on the same day as the Alliance – specifically, United CDPAP, Inc.

United CDPAP, Inc. was formed as a Delaware not-for-profit corporation in Delaware on May 30, 2024 and registered with the New York Department of State as a charitable organization within a week (**Attachment 7**). According to the NY Focus article and our review of the Charities Bureau website, United CDPAP, Inc. has not registered as a charitable organization with the Attorney General, nor does it appear to have a website. According to COELIG public records United CDPAP, Inc. has been the source of \$11,134,559 donated to the Alliance (**Attachment 8**). According to New York Focus, neither the CDANY Executive Director nor the Director of United CDPAP, Inc., would provide the publication with information on why such a large sum was routed to the Alliance through another nonprofit, which has the effect of shielding who the real sources of the funding are. In addition to providing funding to the Alliance,

United CDPAP, Inc. has retained Kasirer LLC as its own lobbyist and currently pays \$20,000 per month to Kasirer for undefined consulting services (**Attachment 9**).

These facts give rise to the reasonable suspicion that CDANY and United CDPAP, Inc. have violated a series of New York State laws that your offices are charged with enforcing, all in furtherance of a campaign designed to mislead the public and scare New Yorkers about their access to health care.

Potential Violations of Law

1. *United CDPAP, Inc. has failed to register with the Attorney General's Charities Bureau as a charitable organization.* United CDPAP, Inc. has registered with the New York Department of State as a charitable not-for-profit corporation (see **Attachment 7**) but does not appear to have registered with the Attorney General's Charities Bureau. N.Y. Exec. Law § 172 requires charitable organizations which intend to solicit contributions from persons in the State to file with the Attorney General prior to any solicitation. The forms, financial reports, and other documents required to be filed become public records. Failure to register obscures the transparency that is the gravamen of the Attorney General's requirements.
2. *CDANY engaged in a related party transaction, by hiring its own Executive Director as its lobbyist.* Article 7 of the Not-for-Profit Corporation Law sets strict requirements for related party transactions by prohibiting them unless the requirements set forth in section 715 are met and there is no conflict of interest in accordance with section 715-a. As a not-for-profit corporation, CDANY must adhere to these rules, and the Attorney General has broad powers to enforce. Section 715(f) permits the Attorney General to bring an action to enjoin, void or rescind any related party transaction that violates the provisions of Article 7, or was otherwise not reasonable or in the best interests of the corporation; or to seek restitution, the removal of directors or officers, or seek to require any person or entity to account for any profits made from the transaction and pay them to the corporation, or in the case of willful and intentional conduct, pay up to double the amount of any improperly obtained benefit. The facts here, where the Executive Director of not-for-profit corporation CDANY hired himself as a lobbyist through a related party transaction with the Alliance, which he also controls, to fund a campaign paid for by a sole source donor which doesn't disclose its own sources of funding, raises reasonable suspicion that CDANY is not following the requirements of the Not-for-Profit Corporation Law.
3. *United CDPAP, Inc. has failed to file semi-annual lobbying reports with COELIG as required by law.* As stated, United CDPAP, Inc. has retained Kasirer LLC to provide consulting services for \$20,000 per month (**Attachment 9**). N.Y. Legislative Law § 1-j (c)(4) and 19 NYCRR § 938.3 require any client of a lobbyist that is required to file a semi-annual report, and which has spent over \$15,000 and at least 3% of its total expenditures on lobbying during the year, to report to COELIG the names of each source of funding that has contributed over \$2,500 from a single source. COELIG regulations clarify that United CDPAP, Inc. is required to disclose in a Client Semi-Annual Report the name of each source for which it received an amount in excess of \$2,500 – which cannot be “an intermediary or any other entity that obscures the name of the person,

corporation, partnership, organization, or entity actually making the Contribution,” as well as the name, address, principal place of business, date they received the contribution, and amount of the contribution. 19 NYCRR § 938.3(e). Although United CDPAP, Inc. has met the expenditure threshold as defined in COELIG regulations at 19 NYCRR § 938.2(f), it has not filed this information with COELIG, claiming to COELIG that it had no applicable contributions, a preposterous claim (see **Attachment 8**, last entry; see also **Attachment 10**).

These apparent failures to comply with multiple provisions of State law are directly at loggerheads with New York law to ensure transparency in lobbying and the proper governance of non-profits. By creating multiple layers of organizations and failing to provide the required reports, it is impossible for the public to know the source of funding for an eight-figure lobbying campaign— and an effort that is seeding the public sphere with harmful lies. Consumers and providers are being told to fight this transition to PPL as the CDPAP FI and not to cooperate – all in a self-serving effort by the very middlemen who have been allegedly engaging in fraud, waste and abuse of this program and making extraordinary profits from it (see, e.g., Press Release, U.S. Attorney’s Office, Eastern District of New York, Eight Individuals Charged in \$68 Million Social Adult Day Care and Home Health Care Scheme (Oct. 9, 2024), available at <https://www.justice.gov/usao-edny/pr/eight-individuals-charged-68-million-social-adult-day-care-and-home-health-care-scheme>).

We urge you to investigate United CDPAP, Inc. to determine whether its sources of funding are legal and to ensure that these shady entities are exposed to sunlight.

Sincerely,

A handwritten signature in black ink, appearing to read "James V. McDonald, M.D., M.P.H.", written in a cursive style.

James V. McDonald, M.D., M.P.H.
Commissioner of Health