



Q&A on March 31 Temporary Restraining Order (TRO) in [*Engesser et al. v. McDonald*](#)

[Direct Link to TRO](#)

1. What did the Judge do?

On March 31, Judge Block issued a Temporary Restraining Order (TRO) that prevents the Department of Health (DOH) from implementing key parts of the law regarding the single statewide fiscal intermediary until Friday, April 4. The TRO is in place until at least Friday, when the judge will hear more and rule if there should be a longer delay and how long any delay should be.

This does not prevent Public Partnerships, LLC (PPL) “from operating, processing applications, servicing and paying CDPAP participants who have already registered with PPL.” What it does do is prevent the Department of Health from “disallowing other Fiscal Intermediaries from servicing those CDPAP participants who have not yet registered with PPL.”

What this means in reality is slightly less clear. At the highest level, it is clear that consumers who are fully registered with PPL should record their time with PPL. “Fully registered,” by our definition, means the consumer, the Designated Representative (DR), and the personal assistant(s) (PA) are all in PPL’s system and show in that system as “Paperwork Complete.” It also means that PPL has your service authorization from your Managed Long Term Care (MLTC) plan or local social services district (including HRA & CASA in New York City).

It is worth noting that PPL and DOH seem to take a different interpretation at this point. They maintain that any consumer who has started or completed registration, regardless of whether their PAs and DR (if applicable) have started or completed registration, are “registered.” We do not understand how someone who has started, but not completed, registration can be deemed registered and it seems to fly in the face of the spirit of the Judge’s order. This will surely become a point the lawyers discuss more fully.

[Here is a link showing what the Department of Health has communicated to managed care plans.](#)

NOTE: If anyone shows as “In review,” then your enrollment with PPL is not complete!

2. Does this mean I don’t need to sign up with PPL, or finish signing up with PPL?

NO. The Judge’s order is only in place until Friday. On Friday, he will hear more from lawyers for the State and PPL, as well as the lawyers representing consumers. At this time, he will decide if the TRO remains in place, and if so, for how long.

Notably, the case is not about the existence of PPL or their ability to have the contract. The attorneys for the consumers are asking for a delay until September 30, for implementation on October 1. The Judge seemed skeptical of that request but will hear more on Friday, April 4.

3. I cannot use either PPL or my old Fiscal Intermediary (FI)'s timekeeping system right now. How do I protect my PAs and ensure that they get paid on time?

If you are trying to clock in with the FI you have been using, please reach out to that FI to determine how best to monitor your consumers' time. You should also receive confirmation that the FI you have been using is still operating and will accept timesheets.

We have heard multiple reports that PPL's time system, Time4Care, has not been working for people today (April 1). We cannot speak to what is wrong with the system. We would advise following the steps below and contacting PPL, if possible, to determine how best to resolve the problem from their end.

If you are unable to log time through PPL or through your old FI, it is very important to keep track of the hours your personal assistants work on a paper timesheet. The information logged on this record must include:

- The name of the consumer, the designated representative (if applicable) and of the worker;
- The date of service, including the day of the week;
- The start and end time of each shift;
- The consumer and worker must verify shifts worked with a signature or verification.

4. Does this mean the State is not going to switch to a Single Statewide Fiscal Intermediary?

NO. This does not stop the switch to PPL and does not mean the state will not use a single statewide FI. We do not know whether the TRO will extend beyond Friday, April 4 and, if it does, how long the extension will be for. Therefore, we encourage you to continue to move toward registration with PPL at this time.

5. I have not yet completed my registration with PPL. My old Fiscal Intermediary, who is a facilitator for PPL, has been told by PPL that they cannot continue to serve me until my registration is complete. My PAs cannot afford to wait for 30 days to get retroactive payments. Is there anything I can do?

We strongly disagree with PPL's intimidation tactics toward their facilitators. We believe it flies in the face of the Judge's order, which again implies that the goal is for all consumers to continue to receive services.

If the consumer and the PA(s) are not all completely registered with PPL, which by our definition would mean that PAs can receive payment, we do encourage you to ask the FI you were previously with if they will continue service. Ultimately, if the FI you were previously with is unwilling or unable to provide you with services, your only option is to proceed with PPL, trying to get through the registration process as quickly as possible so your PAs receive payment.

[Link to Facilitator Letter from PPL CEO Vince Coppola](#)