

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

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NEW 4/2/25: The Court held an emergency telephone conference to clarify its prior temporary restraining order and **issued an order reinforcing the terms**. We will provide a detailed analysis on this shortly.

NEW 4/1/25: Plaintiffs' counsel **notified the court that DOH is violating the Temporary Restraining Order**

What is the Temporary Restraining Order (TRO)?

PER APRIL 2 COURT ORDER - On Wednesday, Judge Block clarified his temporary restraining order to say DOH “must ensure and take whatever action necessary to ensure that all CDPAP consumers and PAs who received care and payment before April 1, 2025, regardless of their present registration status, shall continue to receive care from their existing PAs, who shall be timely paid for their services.”

It is our interpretation that this means managed care plans must reissue contracts to every FI they contracted with prior to April 1. We further believe it means that authorizations between the managed care plan or county and the consumer's FI that were in effect prior to April 1 should be renewed, extended, or deemed in effect until at least Friday April 4 when Judge Block hears the case for a preliminary injunction.

PLEASE NOTE: This is our interpretation. The DOH has not issued any guidance to managed care plans, counties, or FIs. We encourage consumers who wish to

use their previous FI to reach out to both the FI and your managed care plan or county LDSS (including HRA) for further clarification.

Language from April 1, 2025, pre-dating newest order

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).

Here is a link showing what the Department of Health communicated to managed care plans on April 1.

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

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.

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.

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.

If you are trying to clock in with PPL, we have heard multiple reports that PPL's time system, Time4Care, continues to be not working for people. We cannot speak to what is wrong with the system. We do know that, despite managed care plans and county LDSS (including HRA) having sent authorizations to PPL, tens or hundreds of thousands of those authorizations are sitting, waiting to be linked to a consumer. We understand that for some, this is what may be causing the issue.

If you are experiencing these issues and either cannot or do not wish to use your (or the consumers) previous FI and wish to move forward with PPL, 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.

We are unsure whether this is an official PPL timesheet, however, we are linking to it so that at the very least you have a means to document hours worked by PAs. Please communicate with PPL if you need information on how to submit these hours. If you cannot get in touch with PPL in a timely manner, email the Department of Health at StatewideFI@health.ny.gov and **reach out to your elected officials**. It is our understanding that often, elected officials have more luck reaching out to PPL than consumers do. We strongly recommend reaching out to both your State Senator and your Assemblymember.

I saw a message that said a judge has paused the state's transition to PPL and that consumers should not switch to PPL's Time4Care app until further notice, but use Caretime instead. Is this true?

NO. If you received this message, disregard it. The Judge did not pause the state's transition to PPL. Consumers enrolled with PPL should still be making every effort to have their PAs use Time4Care.

April 3 Update: This does not mean you cannot potentially use your previous FI pursuant to Judge Block's April 2 order (detailed above). It is important to acknowledge that the order is not a pause on PPL, that it is temporary, and that it only applies until Friday April 4, though it may be extended. The order also does not apply to use of Caretime. If you use your previous FI, you should use whatever EVV system that FI uses.

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?

April 3 Update: Judge Block’s decision specifically notes that his intent is for consumers to receive services from their existing PAs, “...who shall be timely paid for their services.” It is our belief that this means that consumers and their PAs who would be forced to use the “grace period” outlined by DOH and PPL are entitled to use the FI that they had been working with prior to April 1. This allowance would continue at least until April 4 when the Judge hears the Preliminary Injunction and makes further rulings.

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

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.

What action can I take to complain to the State about my experience with the transition?

- Email the Department of Health at: StatewideFI@health.ny.gov
- Call Senate and Assembly district offices to let them know and see if they can help. At best, they can work with PPL to solve them, because PPL probably responds differently to a Senator or Assemblymember than they do to consumers/PAs.
- Sign up for information and ways to get involved, if you haven’t already done so. You can sign up for more information [here](#) by using the information in the box “Sign up for Alerts” on the right hand side of the page.

