



State of Connecticut  
Department of Developmental Services

DDS

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Governor

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Commissioner

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Deputy Commissioner

**DEPARTMENT OF DEVELOPMENTAL SERVICES TESTIMONY  
BEFORE THE BANKING COMMITTEE  
March 10, 2020**

Senators Kasser and Berthel, Representatives Lopes and Delnicki and members of the Banking Committee, I am Jordan A. Scheff, Commissioner of the Department of Developmental Services (DDS). Thank you for the opportunity to testify on **H.B. No. 5426 AN ACT CONCERNING LIENS FOR UNPAID WAGES AND A REQUIREMENT THAT FISCAL INTERMEDIARIES MEET EMPLOYER TIMELY PAY OBLIGATIONS.**

Section 2 of this legislation deems any fiscal intermediary that provides payroll services to personal care attendants (PCAs) as an employer, for the purposes of failure to pay wages in a timely manner. In addition, this section goes on to detail additional requirements for fiscal intermediaries when there is a failure to pay such wages on time.

For background, DDS contracts with two fiscal intermediaries, Sunset Shores and Allied, to provide administrative support including training and payroll functions, to individuals that self-direct their DDS-funded services. As of December 2019, DDS had more than 1,400 individuals that chose to self-direct their services. Self-direction is an important facet of the DDS continuum of services that empowers individuals with intellectual disability to live the life they desire. Individuals that decide to self-direct design their own support plans, control their own budgets, hire and manage their own staff and make their own choices. This is an important distinction to highlight, the individual is the employer of record for any staff the individual chooses to hire, including PCAs. Neither the fiscal intermediary, nor the state, is the employer of the staff that an individual hires with funding for self-directed services.

To this end, lines 130 through 134 of the legislation, which deem the fiscal intermediary as the employer, not only conflict with the self-directed model, but could potentially jeopardize federal Medicaid funds that provide reimbursement to the state for self-directed services, as outlined in the DDS Individual and Family Support Medicaid Waiver. Specifically, the waiver details that the individual or their legal representative serves as the employer of record and assumes all employer-related responsibilities.

Seeing that PCAs are paid on time for the hours they work is a priority for the department. DDS understands and believes that all employees, including PCAs, have the right to timely payment of wages. DDS also is aware of complications that have led to processing delays related to the payment of PCAs on a weekly basis through our fiscal intermediaries. DDS continues to work in collaboration with the Department of Social Services (DSS), Office of Policy and Management (OPM), the PCA Workforce Council and the fiscal intermediaries to address and resolve these issues, while continuing to focus on improving payroll functions to avoid future complications.

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Lines 135 through 152 of this legislation outline new requirements for fiscal intermediaries specific to payment of wages for PCAs and defines the failure to perform such requirements as a failure to pay timely wages and, therefore, subject to the mandates under sections 31-71a to 31-71i, inclusive, of the general statutes.

DDS has serious concerns with the provisions of section 2 as it requires the fiscal intermediary to work directly with the PCA. This conflicts with the self-directed model and is not within the purview of the contract terms between the fiscal intermediaries and the state.

Both fiscal intermediaries have a detailed process in place regarding timesheet review and payroll verification. Payment to PCAs under self-directed services is done on a weekly basis. To ensure timely payment, the fiscal intermediaries require the employer to submit the employee's (PCA's) timesheet by a certain date and time during the week. Allied also sends employers an automated call the night before payment confirming the number of employees being paid for that payroll. This allows an opportunity for the employer to receive notification that an error may have occurred and time to correct that error. In addition, Allied provides the option for self-directed employees to receive an automated call or text (depending on their preference) confirming their payroll has been processed. There are circumstances, however, where timesheets are submitted late or have other problems that may result in delayed payment. Specifically, examples of timesheet errors that may delay processing include:

- Employer signature is missing;
- hours missing;
- incorrect service dates;
- missing service dates; and
- dates and times are not legible.

DDS is committed to ongoing training for employers of record on timesheet completion and on-time payroll submission in an effort to mitigate timesheet related processing issues.

It is important to note that both DDS and DSS are in the process of implementing an Electronic Visit Verification (EVV) system, pursuant to the federal 21<sup>st</sup> Century Cures Act (P.L. 114-255), for staff hired through self-direction, including PCAs. DDS anticipates this system will greatly reduce the need for paper timesheets and eliminate many payroll-related issues.

DDS would like to take this opportunity to reiterate our commitment to paying PCAs in a timely manner. DDS will continue to make a concerted effort to work with all stakeholders to address any and all concerns that may contribute to a potential delay in payment of wages.

Thank you again for the opportunity to offer testimony regarding [\*\*H.B. No. 5426 AN ACT CONCERNING LIENS FOR UNPAID WAGES AND A REQUIREMENT THAT FISCAL INTERMEDIARIES MEET EMPLOYER TIMELY PAY OBLIGATIONS.\*\*](#) I would be happy to answer any questions you have at this time. You also may contact Krista Ostaszewski, DDS Director of Legislation, Communications and Regulations at (860) 418-6066 with any additional questions.