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January 28, 2026  
HCP Memo 2026-1

## MEMO IN STRONG SUPPORT

A8137 (Paulin) / S7874 (Rivera)

AN ACT to repeal section 3605-c of the Public Health Law requiring authorization for a licensed home care services agency to enroll as a provider under the medical assistance program

### POSITION

The New York State Association of Health Care Providers, Inc. (HCP) STRONGLY SUPPORTS this legislation to restore the right of qualified Licensed Home Care Services Agencies (LHCSAs) to participate in the Medicaid program without being subject to unnecessary and duplicative contracting restrictions.

### SUMMARY OF PROVISIONS

A8137/S7874 would repeal Public Health Law §3605-c, thereby eliminating the Department of Health's (DOH / the Department) authority to implement a Request for Offers (RFO) process to limit the number of LHCSAs authorized to provide services to Medicaid enrollees.

### JUSTIFICATION

In 2020, the Legislature enacted §3605-c as part of the state budget, authorizing DOH to require LHCSAs to compete for a limited number of contracts in order to continue serving Medicaid recipients. This provision was intended to drive consolidation in the home care sector via an RFO. However, the RFO process is both unnecessary and counterproductive.

Changes in the number of Medicaid recipients receiving personal care or home health services are driven entirely by the state, which contracts with an independent assessor (Maximus) to evaluate individuals' care needs and authorize service levels. LHCSAs do not influence these determinations—they simply deliver the services approved by the state based on existing legal eligibility criteria.

LHCSAs do not bill Medicaid directly. Instead, they contract with Managed Long Term Care plans (MLTCs), local departments of social services, or other Medicaid-authorized programs. They are already subject to extensive oversight and regulation, including:

- Licensing and establishment review by the Public Health and Health Planning Council (PHHPC)
- Annual license registrations, cost and statistical reporting, and HERDS surveys
- Regular surveillance by DOH and audits by the Office of the Medicaid Inspector General (OMIG)

*The New York State Association of Health Care Providers, Inc. (HCP) is a statewide trade association representing the full spectrum of home and community-based care providers through information, advocacy, and education. HCP represents licensed home care services agencies, certified home health agencies, fiscal intermediaries, hospices, and related health organizations. Through a strong network of regional chapters and an active State office in Albany, HCP is a primary authority of the home health care industry.*

Furthermore, the LHCSA establishment process was significantly strengthened before §3605-c was enacted, including the implementation of a public need methodology and higher thresholds for licensure and ownership changes. These existing mechanisms ensure program integrity and make the RFO process redundant.

## **REASONS TO REPEAL §3605-c**

The RFO is an unused but looming threat. Although never implemented, the statutory authority for the LHCSA RFO continues to cast a shadow over the sector, creating uncertainty and deterring investment in home care services and workforce development.

No evidence supports the need for consolidation. There is no data demonstrating that reducing the number of LHCSAs leads to improved quality, access, or cost savings. Yet the RFO would create artificial limits on provider participation—disrupting care without improving outcomes.

The CDPAP RFO serves as a warning. The recent CDPAP RFO caused widespread disruption, displacing tens of thousands of consumers, disenfranchising workers, and destabilizing a vital care model. A similar process targeting LHCSAs could result in equally harmful consequences.

The State Already Has the Tools It Needs. Rather than using a blunt RFO process, the state should:

- Leverage compliance and quality data to target underperforming providers
- Strengthen oversight under existing regulatory authority
- Encourage voluntary consolidation through a more flexible licensure and ownership transfer process

## **KEY REASONS TO SUPPORT A8137/S7874**

- **Protects Access:** Ensures continued availability of essential home care services to Medicaid recipients statewide.
- **Reduces Risk:** Eliminates an unused statutory authority that threatens to destabilize provider operations and investment.
- **Prevents Repeat Disruption:** Avoids replicating the harm caused by the CDPAP RFO.
- **Supports Smarter Oversight:** Enables the state to focus on targeted, data-driven regulation rather than imposing arbitrary limits.

## **CONCLUSION**

New Yorkers overwhelmingly prefer to receive care at home. At a time when demand for home-based care is growing and the workforce is under stress, the state must eliminate outdated statutory mechanisms that introduce unnecessary barriers.

Public Health Law §3605-c is redundant, disruptive, and counterproductive. Repealing it will promote stability, preserve access, and allow the state to focus on more effective and evidence-based system improvements.

*HCP urges the Legislature to pass A8137/S7874 without delay.*