



Office for
the Aging

Implementing Private Pay Models in New York State

January 31, 2020

Agenda

- Welcome – Greg Olsen, Director, NYS Office for the Aging
- Federal perspective – Kathleen Otte, ACL Regional Administrator (NJ, NY, PR, USVI)
- State perspective – Becky Preve, Executive Director, Association on Aging NYS
- Private Pay Implementation – Greg Olsen
- Fiscal Reporting and Monitoring – Kevin Haggerty, Principal Accountant

Context – Governor Cuomo's Vision

- Advance a Health Across All Policies approach to incorporate health considerations into policies, programs and initiatives led by non-health agencies.
- Consider how all of our policies, programs and initiatives support us to achieve the Governor's goal of becoming an age friendly state.
- Long term goal is to embed Health Across All Policies and Healthy Aging into all aspects of our government work, under the umbrella of the state's Prevention Agenda.

Context – Governor Cuomo's Vision

- As a result of the Governor's directive to include healthy aging in state agency policymaking, New York State was designated the first age-friendly state in the nation by the World Health Organization (WHO) and AARP in 2017.
- New York ranked high in the [eight age-friendly and livable community domains](#) outlined by WHO and AARP, which include:
 1. Outdoor spaces and buildings;
 2. Transportation;
 3. Housing;
 4. Social participation;
 5. Respect and social inclusion;
 6. Work and civic engagement;
 7. Communication and information; and
 8. Community and health services.

Age friendly domains: <https://www.aarp.org/livable-communities/network-age-friendly-communities/info-2016/8-domains-of-livability-introduction.html>



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Context – Governor Cuomo's Vision

Building on the state's age-friendly strategies, the Governor has continued to promulgate a series of policies preparing for the emerging needs of a growing aging population, including:

- Issuing Executive Order #190, which directs all state agencies to consider the impact of their policies and procurements on health and healthy aging, aligned with the eight domains of an age-friendly community.
- Setting a goal of making 50 percent of all health systems in the state age-friendly by 2023, including the establishment of age-friendly emergency rooms better equipped to provide care to aging New Yorkers with cognitive and other physical disabilities.
- 2020 – Implementation of age friendly RFA

ACL Vision

“ If the network fails to adapt, it risks being marginalized in a world that doesn’t always understand the work it does and how it relates to health and healthcare.”

—Kathy Greenlee, “[Assistant Secretary for Aging Sees Network at a Crossroads—And a Place for New Opportunities](#),” *AgingToday*, March-April, 2016, page 1, and ASA Conference, Washington, DC, 2016.

John A. Hartford Foundation & Health Foundation of Western and Central New York Vision

“ . . . Health happens at home . . . Yet, the medical world has little knowledge of the array of services that can and should be provided, which would not only complement medical care, but could help to improve it.”

—Terry Fulmer & Nora-O'Brien-Suric, “[Integrating Medical Care and Social Services Can Improve Care Quality for Elders](#),” *AgingToday*, May-June, 2016, page 1

2006 OAA Amendments

- Clarify that area agencies on aging and service providers may enter in contractual, commercial, or **private pay relationships** to generate additional revenue for the program provided that such revenues be reinvested in the program to serve eligible individuals and such activities do not disrupt or reduce services to individuals with the greatest need.

ACL Guidance

The Administration on Aging's (AoA's) *Frequently Asked Questions* states the following in response to whether the aging network can implement private pay services:

“Private pay services can create opportunities to reach a segment of the population not traditionally served by the network, however: such activities are optional for States, Area Agencies and service providers. In general, private payment for services occurs when individuals pay the full cost of the services they receive. Because there is no public funding involved, private pay services are not subject to the ‘cost sharing’ provisions under the OAA (Sec. 315(a)).”

ACL - Private Pay Defined

- Private pay is defined as the purchase of services that are either delivered directly by the AAA or from contracted service providers. These services are purchased by private individuals at the full cost of the service priced at a competitive market rate.
- This definition is based on the requirements set forth in the OAA. The OAA stipulates that individuals and entities purchasing services provided under the Act must do so at the fair market rate.
- Nonprofit ventures must not utilize publicly-financed infrastructure or resources to under-cut the market and provide a service at below market rates (OAA, Sec. 212).

Why Serve Private Pay Customers

- Individuals and families with all levels of income need objective, reliable information, assistance and counseling
- AAA/Community-Based Organizations (CBOs) can help families with private resources use those resources more wisely, which may delay or prevent “spenddown” to Medicaid or unnecessary institutionalization
- Potential for financial or in-kind resource contributions to AAA/CBOs operations
- Employers and insurers are purchasing services that AAA/CBOs can provide through options counseling
- Serving more people results in greater community impact
- The use of AAA/CBOs services by all types of residents in a community helps build support and achieve sustainability
- Strong consumer protection approach
- Expansion of services due to revenue generation to address unmet need



Benefits of Creating Private Pay/Cost Sharing for Network Services

- Addresses state priorities – social determinants, value-based payments, DSRIP, business acumen
- AAA network (59 AAAs and 1,200 CBOs) providing home and community based services for over 40 years
- Are required by law to have a multitude of local partnerships – health, legal, law enforcement, courts, CBOs, service providers
- Are connected to county system and have relationships with other county departments and their providers (public health, behavioral health, substance abuse, adult protective, etc.)
- Network is monitored by state; local CBOs monitored by AAAs
- Staff are professional and trained, required to be objective
- Case managers and health insurance counselors required to be certified by the state.
- Provide services at a fraction of the cost of medical/clinical providers
- Important part of Prevention Agenda, Health Across All Policies, rebalancing efforts, and Olmstead plan.
- Majority of older New Yorkers and caregivers are not Medicaid eligible nor are receiving Medicaid services – providing community services will keep it that way while retaining their economic footprint in communities
- Ability to develop marketing to reach higher income population creates opportunity to intervene and provide services, as well as benefits and application earlier, but will create revenue that will help lower income individuals on waiting lists receive services
 - Jobs will be created and capacity will be increased



Why Private Pay

- Majority of AAAs are experiencing demand for services that outpace their ability to provide them.
- This has resulted in documented unmet need for services such as home care, case management, transportation, home delivered meals, PERS, etc.
- The choice to pay privately is a viable option for some clients and their family members with higher incomes.
- AAAs are experiencing an increased volume of requests for services due to demographic changes, and policy changes prioritizing community service delivery that focus on addressing the social determinants of health.
- Further, the NY Connects systems reforms, Business Acumen project, DSRIP, VBP arrangements and changes to Medicare are highlighting the effective role AAAs and Community Based Organizations play in reducing costs and improving health, which has resulted in increased referrals.

New York State Trends Demographics

FAMILY STRUCTURE in the United States

Married couple families



Married couple families with children



Single parent households



Single person households



Non-traditional households



New York State

62 Counties

Change in Population Aged 60 and Over

2020 to 2030

Proportion of County Population Aged 60 and Over

Number of Counties with Specified Percent of Older Adults

2020

2030

Less than 20%

3

2

20% to 24%

18

8

25% to 29%

32

17

30% and over

9

33

Source: Woods & Poole Economics, Inc., 2019 State Profile

Aggregate Personal Household Income by Age - NYS

Age	Aggregate Personal HH Income	% of Total
Less than 24	\$ 8,934,627,400	1.48%
25 to 44	\$ 216,111,979,400	35.76%
45 to 64	\$282,022,363,700	46.67%
65 and older	\$ 97,278,275,500	16.10%
TOTAL	\$604,347,246,000	

- In addition, according to the AARP, persons over the age of 50:
 - control 83% of the country's wealth
 - make up 51% of consumer spending, over \$7 trillion

1,494,665 older New Yorkers have incomes at or above 400% of poverty (\$48,240 annually).

<u>Region</u>	<u>Older Adults</u>
North Country	36,838
Mohawk River Valley	35,564
Central	56,791
Finger Lakes	26,016
Western	147,941
Southern Tier East	24,301
Southern Tier West	27,613
Capital	81,080
Catskills	21,586
Lower Hudson	197,711
Long Island	308,891
NYC	530,333
TOTAL	1,494,665



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According to data from the American Community Survey, individuals self report the following disabilities, providing a more accurate estimate of current need that can inform the future:

<u>Self-reported Disability (age 60+)</u>	<u>Above 400%</u>	<u>Below 400%</u>
Ambulatory Difficulty	223,276	574,080
Cognitive Difficulty	78,125	227,330
Hearing Difficulty	132,362	243,627
Independent Living Difficulty	142,479	381,344
Self-Care Difficulty	78,350	224,765
Vision Difficulty	57,980	165,567
TOTAL	712,572	1,816,713

50+ Longevity Economy

- 83 percent of US household wealth is held by people over 50.
- Access to credit and assets allows the group to spend more on goods, services and investments than their younger counterparts.
- Economic activity by those aged 50 and over amounted to \$8.3 trillion in 2018.
 - Direct spending - \$7.6 trillion – 56 cents of every dollar spent
- When summed together, approximately \$1.8 trillion in federal, state and local taxes were attributable to the Longevity Economy in 2018. Will quadruple by 2050:
 - About 43% percent of federal tax revenue (\$1.4 trillion); and
 - 37% percent of state and local tax revenue collected in the US (\$650 billion).

50+ Longevity Economy

50-plus cohort

- Spends more overall than their under-50 counterparts
- Accounts for a majority of the spending in several categories of goods and services, including:
 - **Healthcare;**
 - **Nondurable goods;**
 - **Durable goods, utilities;**
 - **Motor vehicles and parts;**
 - **Financial services; and**
 - **Household goods.**

Societal Benefits

- Worth \$745 billion in 2018
- Caring for loved one, helping raise grandchildren, volunteering, supporting charities

Overall contribution – economic and unpaid activities - \$9 trillion in 2018.

50+ also account for the majority of:

- **Volunteering;**
- **Philanthropy; and**
- **Donation activities** in the US.

50+ Longevity Economy

- As people in the 50-plus cohort make purchases at grocery stores, retail outlets, restaurants, healthcare centers, and so on, money ripples through these providers' supply chains.
 - And the longer people remain in the labor market, the more they earn and have to spend
- Spending by people aged 50 and over in the US in 2018 supported:
 - More than 88.6 million jobs (44% of total employment)
 - Over \$4.7 trillion in labor income
 - 61 percent of all US jobs and 43 percent of labor income was related to spending by the 50-plus cohort

Obstacles – Fears

- “Nonprofit organizations shouldn’t make money (profits)”
- “Traditional funders will not approve”
- “For-profit businesses will raise issue of unfair competition”
- “My board will NEVER approve!”

The social worker issue:

- “I can’t charge for that; I help people!”
- The entitlement concept
- “I pay my taxes; it should be free!”
- How do we determine who gets services that are free vs. full pay clients?
- “Staff and the community will not understand”
- “How can we charge some people for services and give them away to others?”

NYS Model – First in Nation

- Section 203 of the New York State Elder Law was amended as part of the enacted SFY 2019-2020 budget by adding a new subdivision 12 authorizing the director of NYSOFA to implement private pay protocols for certain programs and services it administers.
- This change and the ability to offer middle- and higher-income earners the ability to self-finance are consistent with Governor Cuomo's priority to make New York the healthiest state in the nation under the umbrella of the state's Prevention Agenda and as the first certified age-friendly state in the nation, and is consistent with Older Americans Act amendments.
- It also recognizes that federal/state/local funds are not sufficient to meet current demand for services and provides the statutory authorization to offer services in a fee-for-service model for higher income individuals and families.
- Based on the premise of consumer protection, objectivity, and positive individual, family and society outcomes.

NYS Model – First in Nation

1. Applicable to state and local funded programs only
 2. Not allowed for federally funded programs
 3. County-opt-in
- Private Pay protocols administered under subdivision 12 of the Elder Law §203 may not be applied to services for individuals with an income below 400 percent of the FPL regardless of who is paying for the services (e.g., an adult child or other individual).
 - Subdivision 12 provides that the private pay payments be set at a cost to the participant of not more than 20 percent above either:
 - The unit cost to the AAA to provide the program or service directly; or
 - The amount that the AAA pays to its contractor to provide the program or service.

NYS Model – First in Nation

- The payments received by the AAAs may not supplant funds by state, federal or county appropriations. AAAs must first reinvest any private pay revenue back into their service provision to reduce unmet need for aging programs and services and then to support and enhance new or existing programs provided by the AAAs.
- AAAs implementing private pay protocols under section 203(12)(b) of the Elder Law are required to report the following information to NYSOFA:
 - The unmet need, if any, for all programs and services offered;
 - The number of participants that privately paid for each program or service for that year;
 - The rates participants were charged for each program or service provided as well as the total amount of revenue generated via private pay for each program/service for each state fiscal year; and
 - How revenue generated by this program was reinvested back into AAA programs and for what programs and services they supported.

Allowable Private Pay Services

For the purposes of the private pay protocols, services that may be offered include:

- COMPASS assessment
- Case management
- Personal Care Level I and II
- Consumer Directed Personal Care Level I and II
- Ancillary services
- Home delivered meals
- Social Adult Day Services
- Transportation
- Caregiver supports and respite
- Personal Emergency Response Systems (PERS)
- Financial management/bill paying
- Other/emerging services approved by NYSOFA

Non-Allowable Private Pay Services

For the purposes of the private pay protocols, services that may **NOT** be offered include:

- Information and Assistance
- Long-Term Care Ombudsman Program
- Elder abuse prevention and mitigation
- Legal assistance
- Congregate meals
- Person centered counseling/options counseling
- Health Insurance Information Counseling and Assistance

Implementation Requirements

When an AAA is seeking to implement a private pay option under Elder Law §203(12) for aging network service(s), the AAA must consider and achieve compliance with the following requirements:

- AAAs that provide private pay services must ensure that the AAA is reimbursed at least the total cost of the service provided. This cost should include the administrative costs borne by the AAA to provide the private pay service.
- AAAs must ensure that the services provided under these private pay protocols meet all of the programmatic requirements and guidelines for the delivery of each of those services, however, program eligibility requirements, including age, do not apply.
- To the extent federal and state funding is available, AAAs must ensure that all individuals who are eligible to receive federal and state funded aging services are offered those services.
- AAAs may not allow individuals who participate in private pay services preferential waiting list placement.



Implementation Requirements

- AAAs may not subsidize private pay services with state or federal funds. Funds from the services provided under the private pay protocols must be kept separate from state and federal funds and AAAs must be able to account for revenue and expenses of private pay activities.
- AAAs may not use federal or state matching funds to cover the expenses of private pay activities and the revenues received from the private pay services may not be used to match federal or state program funding.
- AAAs in New York State may implement private pay options when effective accounting methods are maintained for the appropriate segregation of resources and costs. This information must be maintained in a manner consistent with required fiscal practices for monitoring purposes.
- AAAs may not consider private pay resources as program income. Payments received must first be used to reduce unmet need for aging programs and services and then to support and enhance new or existing programs provided by the AAAs.

Individuals Eligible to Participate

AAAs may offer private pay options to:

- Individuals with an income of at least 400 percent of the federal poverty level and one or both of the following:
- Individuals not eligible for service(s), but who would like to purchase the service(s) from the AAA; however, it is recommended that all individuals undergo a client assessment to accurately determine the individual's needs;
- Individuals/their families who choose to access one or more service(s) that may only be available through private pay (e.g., an escort to stay with the client throughout appointments, shopping assistance, PERS, etc.).

Rates for Private Pay Services

- Private pay services are either delivered directly by the AAA or entities with which the AAA contracts. These services are purchased by individuals at the full cost of the service priced at a competitive market rate. An additional 20 percent above market rate is allowable.
- Elder Law §203(12) provides that private pay payments shall be set at a cost to the participant of not more than 20 percent above either:
 - The unit cost to the AAA to provide the program or service directly, or
 - The amount that the AAA pays to its contractor to provide the program or service.
- The 20 percent above unit program cost is to be based upon the determination of program costs following generally accepted accounting principles (GAAP). Unit costs should include all fixed costs (plant and equipment) and variable costs (personnel, salary and fringes, travel, other equipment, supplies, rent, phone, utilities, audit, etc.) that are involved in the production and/or delivery of the service.

Use of Payments Received

- Elder Law §203(12) stipulates that all revenue earned by such private pay ventures above the cost to provide the service must be:
 - Reinvested into addressing any documented unmet need first; and then
 - Provide enhanced or additional services in accordance with the traditional mission of AAAs.
- Private pay payments received by the AAA directly or indirectly by one of its contractors must be used to supplement, not supplant, funds by state, federal, or county appropriations.

Monitoring

- AAAs that either directly or through a contractor implement private pay options for state/county funded programs must abide by the standards as set forth in these protocols.
- The AAA will be responsible for oversight and monitoring of any contractor that the AAA uses to provide services for its private pay option.
- Services shall be delivered to individuals who opt to private pay for services in accordance with state statute, regulation, and requirements including participants who would not have been eligible for service(s) but choose to purchase the service from the AAA and/or contractors. It is recommended that all individuals undergo a client assessment to accurately determine the individual's needs
- Case files are subject to review by NYSOFA as part of the Annual Evaluation process.



Reporting

Each AAA implementing private pay protocols under Elder Law §203(12) shall annually report to NYSOFA the following information in the form and format established by NYSOFA:

- The unmet need, if any for all programs and services offered;
- The number of participants that privately paid for each program or service for that year;
- The rates participants were charged for each program or service provided as well as the total amount of revenue generated via private pay for each program/service for each state fiscal year; and
- An explanation of how unmet need for program or services offered by the AAA were affected by revenue from the private pay protocol.

Fiscal Reporting and Monitoring

- Recording Private Pay Planned Expenditures in the Four Year Plan/Annual Update to the Four Year Plan.
- Reconfiguring CAARS Reporting to Allow for the Capture of Actual Private Pay Expenditures.
- Incorporating the Review of Private Pay Programs into Mandated Fiscal Monitoring.

Approval Process

- The statute takes effect April 11, 2020
- AAAs opting into the private pay model under Section 203(12) of the Elder Law, either directly or indirectly (through a contractor) must submit to NYSOFA certain information, including the following:
 - A statement of intention to participate in the private pay model;
 - The services that will be offered under the private pay model; and
 - An Attestation regarding the permissible use of private pay funds under the private pay model.

Questions

We anticipate this will generate questions and we will take those in writing and develop an ongoing Q&A document to share with all AAAs, posted on our website, to assist with any technical implementation questions.

Questions should be directed to:

privatepay@aging.ny.gov



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