

**DRAFT REQUEST FOR APPLICATION
FOR DEVELOPMENTAL DISABILITIES
INDIVIDUAL SUPPORTS AND CARE
COORDINATION ORGANIZATION (DISCO)**

**NEW YORK STATE OFFICE FOR PEOPLE WITH
DEVELOPMENTAL DISABILITIES (OPWDD)
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Introduction

Programmatic Goals of the People First Waiver and the Pilot Process

OPWDD is committed to the mission of helping people live richer lives and creating stronger person-centered services now and in the future for the individuals with developmental disabilities who receive services and supports from New York State Office for People with Developmental Disabilities (OPWDD). During a two-year period OPWDD and the Department of Health (DOH) will pilot specialized managed-care organizations that meet the applicable requirements of Article 44 of the Public Health Law and have expertise in the provision of services under the auspice of OPWDD. These entities will be known as Developmental Disabilities Individual Supports and Care Coordination Organizations (DISCOs).

During the pilot period individuals will voluntarily opt to enroll in the DISCO. In keeping with the valued outcomes of OPWDD and the programmatic objectives of the People First Waiver, during the application process the DISCO applicant will be required to describe how it will:

- Provide Person-Centered Planning for all individuals that focuses on individual outcomes for all individuals enrolled in the DISCO,
- Promote OPWDD's four valued outcomes for individuals to:
 - Live and receive services in the most integrated settings;
 - have meaningful and productive community participation, including paid employment;
 - develop meaningful relationships with friends, family, and others in their lives; and
 - experience personal health, safety and growth
- Ensure that each individual who chooses to do so can self-direct his or her services including the option for budget and employer authority; and
- Maintain a well trained workforce that minimally meets all OPWDD requirements and is culturally competent to meet the needs of the individuals seeking or receiving supports and services in the communities in which they live.

The application process will begin in 2013 and will include a letter of intent, a formal application, and a final readiness review that ensures the DISCO is ready to begin coordinating services. Throughout the document, we use the term 'enrollee' to mean the person who voluntarily enrolls in the DISCO. Where appropriate an enrollee may be represented by his or her legal guardian, conservator or legal representative.

What is a Developmental Disabilities Individual Support and Care Coordination Organization?

A DISCO applicant is a public or non-profit (private) entity incorporated under New York State Law to operate a DISCO. The expectation is that the leadership of the DISCO (board members and officers) will have extensive experience coordinating care for individuals with Intellectual/Developmental Disabilities (I/DD). Experience coordinating care for individuals with developmental disabilities will be evaluated based on leadership member's overseeing and operating entities that deliver Medicaid Service Coordination, and/or HCBS waiver services that are in good standing with OPWDD.

The DISCO and all its network providers, with which it enters into subcontracts, will be required to be in compliance with all applicable State and federal licensing, certification, and other requirements. These entities must be generally regarded as having a good reputation and have demonstrated capacity to perform the needed services. For network providers under the jurisdiction of OPWDD, competence will be demonstrated with acceptable OPWDD survey/fiscal reviews.

The DISCO must maintain an administrative and organizational structure that supports high quality supports and services and comprehensive care coordination. The management structure should

ensure effective linkages between administrative areas: Quality Management, Network Development and Contracts Management, Information Technology (Utilization Review), Enrollment / Disenrollment, Care Coordination, Accounts Receivable / Accounts Payable, and Budget, Finance and Accounting. A complete description of a DISCO's areas of responsibility will be identified in its contract with New York State that will be published separately, and later included as an addendum to this document.

Application and Timeline

A copy of this DRAFT RFA is being published at this time for information purposes only and will be updated prior to the formal issuance of the final document. The timetable for publication is dependent on the approval of the Centers of Medicare and Medicaid Services (CMS) along with both OPWDD's new 1915 b Waiver and amendments to its 1915 c Waiver, but it is the intent of OPWDD that the final RFA will be issued in March 2013, with DISCO pilots beginning operations in November 2013. Questions regarding this document may be addressed to the People First Waiver Unit, at people.first@opwdd.ny.gov.

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DRAFT REQUEST FOR APPLICATION FOR DISCO

I. REQUIRED ORGANIZATION AND MANAGEMENT OF PROPOSED DISCO

a. GOVERNING BOARD

DISCO Governing Boards must meet to conduct the business of the DISCO at least four times per year (once each quarter). In keeping with existing DOH regulations, the DISCO's governing board must:

- Within one year of becoming operational, have no less than 20 percent of its board membership be made up of individuals served by the DISCO or advocates , **OR**
- As an alternative to or in addition to individual/advocate board membership, an advisory council may be created that has direct input to the governing board.

The Governing Board is responsible for establishment and oversight of the DISCO's policies, management and overall operation, regardless of the existence of any management contract. Board members of DISCOs must also participate in OPWDD-required abuse and incidents training within three months of becoming a board member. In keeping with the current requirements for Board Members of entities that provide Medicaid Service Coordination (MSC), this training is required onetime for each Board Member.

During the application process to become a DISCO and at intervals as needed, a review will be conducted to ensure that the governing board demonstrates that its members are of such character, experience, competence and standing in the community as to give reasonable assurance of their ability to conduct the affairs of the proposed DISCO in the best interest of the DISCO and in the public interest, and to provide proper care for enrollees. For information purposes, current forms used by the NYS Department of Health to gather information regarding the character and competence of applicants can be found at:

http://www.health.ny.gov/facilities/long_term_care/docs/final_coa_061011.pdf

b. SERVICE DELIVERY NETWORK

All covered services must be directly provided or arranged for within the approved provider network pursuant to written contracts developed and maintained in a prescribed form and manner. For covered services (below), enrollees must be offered a choice of at least two providers for each type of provider. A DISCO must have a network of providers that have specialized expertise serving individuals with developmental disabilities including any special populations. Consideration will be given to development of networks based upon the availability of providers in the proposed service area. The chart below indicates the covered services:

OPWDD Auspice Services	DOH Auspice Services	OMH/OASAS Auspice Services
<ul style="list-style-type: none"> • Voluntary Operated OPWDD Comprehensive Waiver Services • Voluntary Operated Day Treatment • Voluntary Operated ICF/MR • Art 16 Clinic Svcs: OT, PT, SLP, Clinical Social Work, Psychology, Nutrition, Rehab Counseling, Podiatry, and Dentistry. • Care Coordination provided by the DISCO 	<ul style="list-style-type: none"> • Adult Day Health Care • Assisted Living Facility • Dentistry • DME and Hearing AIDS • Home Care (Nursing, Home Health Aide, PT, OT, SLP, nutrition, Medical Social Services and associated ancillary services such as home delivered meals and social day care) (offered under any auspice: hospital-based, nursing home-based, and free-standing programs) • Non Emergency Transportation • Optometry/Eyeglasses • OT, PT, SLP • Personal Care • Personal Emergency Response System • Private Duty Nursing • Psychology and Clinical Social Work • Respiratory Therapy • Skilled Nursing Facility # 	<ul style="list-style-type: none"> • OASAS Inpatient # • OMH Institutional Program (PC/RTF) & private psychiatric hospitalizations # • Psychology and Clinical Social Work. • OMH day treatment, • PROS
<p>Note: “#” in the above chart indicates that the service will be included in the benefit package, but the individuals who live in these settings will not be enrolled in a pilot DISCO. However, if an individual who is already enrolled with a DISCO enters one of these settings, the DISCO will be expected to pay for the service, while working with the individual to ensure that he or she lives in the most integrated setting possible.</p>		

In its review of network capacity, OPWDD will assess the degree to which the DISCO applicant’s proposed network providers are capable of delivering services in a manner that is responsive to cultural considerations of the community, and to address the specific cultural and language needs of its enrollees. For network providers under the jurisdiction of OPWDD, competence will be demonstrated with acceptable OPWDD survey/fiscal reviews.

c. CONTRACT MANAGEMENT

Once the DISCO has identified providers who are able and willing to provide services within its network, the DISCO must establish service contracts with those providers. Contract monitoring procedures will be described in a "Policies and Procedures" manual maintained by the DISCO, and will be included in whole or in part in the contract document established with the provider agencies at the time the contract is initiated. Contracts must include:

- The standards related to the provision of the service;
- The necessary qualifications of the staff related to the services and of the agency itself;
- Provision for ongoing monitoring of the provider's compliance with the subcontract by the Contractor;
- Satisfactory remedies, including termination of a subcontract when it is determined that such parties have not performed adequately which includes but is not limited to egregious patient harm, significant substantiated complaints, submitting claims to the plan for services not delivered, and refusal to participate in the plan's quality improvement program;
- A definition of all events which would be considered reportable under the definitions of "Unusual Incidents" and a description of the processes that are related to such instances;
- A complete description of the billing processes and the rates associated with the service units;
- A description of the appeals and grievances processes available to the subcontracting agency for conflict resolution regarding payment issues.

All subcontracts will require the approval of the state, and requirements established in NYS PHL 4402 and in 10 NYCRR Part 98 will guide the development of DISCO sub-contracts. Further, subcontracts will also meet the requirements of 42 CFR Part 434 and 438 that are appropriate to the service or activity delegated under such subcontract and will be consistent and comply with applicable state and federal laws and regulations.

d. ENROLLMENT MONITORING AND DISENROLLMENT REPORTING

Qualified individuals of all ages will be eligible to enroll in a DISCO pilot, with the authorization of the OPWDD Regional Office. An individual will qualify for pilot enrollment, if he or she has a qualifying developmental disability, meets ICF/DD level of care and is Medicaid-enrolled. This includes those dually eligible for Medicaid and Medicare. Specifically, this includes individuals now receiving:

- OPWDD 1915(c) Comprehensive Waiver Services
- ICF/DD services
- OPWDD Targeted Case Management (MSC)

- Other long term support services (e.g., personal care) under the auspice of state agencies other than OPWDD.

Individuals receiving OPWDD state operated residential and day services will be prohibited from entry into DISCO plans during the pilot phase. Similarly, during the pilot period, OPWDD does not intend to enroll individuals who meet the above qualifications who live in a skilled nursing facility, OASAS or OMH facility, or a private psychiatric hospital.

The DISCO will be required to fulfill certain reporting requirements regarding the enrollment and disenrollment of individuals. Reports will be provided in a required form and format, so that the state can assure adequate capacity and access for the enrolled population and that satisfactory administrative and management arrangements are in place. Reports may include but are not limited to information on: availability, accessibility and acceptability of services; enrollment; enrollee demographics; disenrollment; enrollee health and functional status (including the Developmental Disabilities Profiles (DDP) or NYS OPWDD Coordinated Assessment System (CAS) or any other such instrument the Department may request); service utilization; encounter data, enrollee satisfaction; marketing; grievance and appeals; and fiscal data.

The DISCO must process applications for enrollment in the order in which they are received and must not discriminate on the basis of intensity of need or health status. Prior to enrollment in a DISCO each enrollee must sign an enrollment agreement which indicates that he or she:

- received a copy of the member handbook which included the rules and responsibilities of plan membership and which expressly delineates covered and non-covered services;
- agreed to the terms and conditions for plan enrollment stated in the member handbook;
- understood that enrollment in the DISCO is voluntary;
- received a copy of the DISCO's current provider network listing and agreed to use network providers for covered services; and
- was advised of the projected date of their enrollment.

e. ASSESSMENT OF PROSPECTIVE MEMBERS

OPWDD is now working on the development of a new assessment tool (the CAS) and once the design and roll-out of the new tool is complete, it will be in use throughout the OPWDD service system. Further, it is OPWDD'S intent that State will be responsible for completing an initial assessment with individuals and their circles of support. DISCOs will also need to use the assessment tool in order to support care plan development and monitoring.

DISCO pilots will be expected to participate in the roll-out of the new assessment instrument and to ensure that the current instrument (the DDP2) is completed for all enrollees in accordance with current OPWDD written guidance regarding DDP completion. The CAS is being used in limited case studies that will help OPWDD finalize the assessment tool for wider use. OPWDD will subsequently develop a plan for rolling out the final CAS

for system-wide use over several years. During the application process, the DISCO applicant will be expected to describe the qualifications of the staff performing the assessments; the process for ensuring the completeness and accuracy of the assessment forms. In addition, the applicant will describe any triggers for reassessment. If other assessment tools will be used in addition to the DDP and CAS, the applicant will need to name the tools and whether these additional instruments will be used to assess special populations.

f. CARE MANAGEMENT

Care management entails the establishment and implementation of a written care plan and assisting enrollees to access services that reflect the person’s communicated choices and needs. Care management is a critical component of the DISCO, and therefore during the application process the DISCO’s approach to providing care management to its members will be assessed. The intent of this readiness review is to assure that the DISCO is prepared to work with enrollees and families, so that each person’s needs are identified, linkages are made to needed services, services are monitored and care plans amended if the person’s valued outcomes are met or needs change. The overall person-centered approach should address the person’s desired outcomes and the long- term support services that will help the person obtain those outcomes, and his or her physical and behavioral health needs. The readiness review will also assess the methods and tools for ongoing monitoring of health and safety of enrollees. The care management system will also be evaluated for its ability to make out-of-network referrals and arrange for the continuation of existing care relationships with out-of-network providers (during a transitional period), when necessary for the person’s quality of care.

Each person will have a primary care manager, but will also have a care management team that will be available to assist with specialized planning needs of the person. The DISCO will recruit and hire a panel of professionals with different expertise and specialty backgrounds, (i.e., nurse, education specialist, employment expert). These professionals will be available to participate on care coordination teams as dictated by the enrollee’s care plan. The DISCO should have available representation from self-advocates, families of people with developmental disabilities (this would include families and individuals who are actually being served by the care coordinating entity), and experts in cultural diversity and language to provide expertise and advocacy as needed.

Work Team Deliverable — Proposed Qualifications of Care Coordinators

The effectiveness of the DISCO’s care management provision will be assessed as a component of its on-going Quality Improvement plan. To assess the quality of care coordination, the DISCO will report outcomes that relate to:

Work Team Deliverable — Care Coordination Work Team will provide Input on Outcomes for Care Coordination on Quality Outcome Measures

g. FINANCIAL REQUIREMENTS

i. General Financial Requirements

DISCO entities must have initial capital sufficient to comply with the Health Department's Regulation Part 98-1.11 escrow and contingent reserve requirements on an ongoing basis. They must fund cumulative operating losses sustained through the time the break-even point is reached and provide additional resources to cover unanticipated losses. At a minimum estimated start-up capital funding must be sufficient to fund the following: Pre-operational Expenses, Cumulative Net Losses until month of Break-Even, and an additional capital margin for unanticipated losses calculated based upon 5% of projected service expenses for the 12-month period after reaching financial break-even.

DISCO applicants must identify the source(s) of initial capital. If the source of capital is a subordinated loan, then the loan must be in the form of a Surplus Note (Surplus Notes are issued in accordance with SSAP No. 41, see Attachment 6 for guidelines and principles). The proposed loan document must be submitted review and approval by the state. When determining the total initial capital needed at start-up, only liquid assets are counted (excludes buildings, furniture, fixtures and equipment). Pledges and/or donations receivable will not be counted towards start-up capital.

Reserve and Escrow Requirements

All DISCOs are subject to the reserve and escrow requirements in 10NYCRR §98-1.11(e) and (f) with the exception of the initial 2 years of operations as described in the following paragraph.

Pending Agreement with DOH and Division of Financial Services

OPWDD is working with the Division of Financial Services regarding a 'start-up' period that would allow a period for DISCOs to meet the full reserve requirements.

DISCO entities shall maintain a reserve, to be designated as the contingent reserve, which must be equal to 5% of its annual net premium income.

Minimum Net Worth

The DISCO must maintain a minimum net worth equal to the greater of the escrow requirement or the contingent reserve.

OPWDD intends to establish risk sharing arrangements with DISCOs in order to mitigate risk for these entities. The final design will be established as part of the actuarial rate development process.

ii. ACCOUNTS RECEIVABLE/PAYABLE

Accounts Receivable and Accounts Payable is defined as the management of capitation revenues, and payment of claims received from the subcontract network providers.

Capitation payments are paid on the basis of enrollment of the enrollees who receive services under the DISCO. The billable unit is defined as a month of enrollment per enrollee, sometimes referred to as a “member month.” In order to manage the revenue (Accounts Receivable) stream, the DISCO staff will have to have the ability to monitor the accurate level of member months occurring in the month to ensure that the payments are at the level at which they should be paid. Links will need to be in place, which tie back to the enrollment / disenrollment status of the enrollees the DISCO is expected to serve.

Accounts Payable capabilities are different primarily because the payments made to sub-contracted providers in the provider network are generally paid on a fee-for-service basis. This means that for each service there is a “billable unit” defined and a rate associated with the billable unit. The DISCO must comply with Section 3224-aof State Insurance Law pertaining to prompt payment to providers of covered services.

Pending Discussion of Fiscal Sustainability Work team

With stakeholders on the work team, OPWDD is examining methodologies for establishing standardized fees that would inform the development of the DISCO’s capitation rate, and the payment that the DISCO would make to the ‘downstream’ provider.

iii. BUDGET/FINANCE/ACCOUNTING

Budget, Finance and Accounting is the term given to the monitoring and reporting of all financial aspects of the operation of the DISCO. In this administrative responsibility area the DISCO will calculate operating budgets predicated on the individuals enrolled with the DISCO and estimated service delivery costs (based as closely as possible on the comprehensive plans of active enrollees) taken together with other administrative operating costs. These budgets will be monitored against actual expenditure patterns periodically throughout the fiscal year. The following specific financial reports will be required:

- **Annual Financial Statements:** will be submitted each year in the form known as the Medicaid Managed Care Operating Report (MMCOR). The MMCOR shows the condition at last year-end and contains the information required by Section 4408 of the Public Health Law. The due date for annual statements shall be April 1 following the report closing date.
- **Quarterly Financial Statements:** are due forty-five (45) days after the end of the calendar quarter.

h. UTILIZATION MANAGEMENT AND REVIEW SYSTEMS

In the developmental disabilities service arena, utilization review is critical to ensure that the needs of enrollees are met and that services are provided in the most integrated and appropriate setting to meet the person's needs. Specific utilization review functions can include:

- Assuring maximum system use of available community-based and integrated services, based on needs of the enrollee;
- Providing direction and linking to care coordinators, the enrollee or advocates and caregivers regarding services that promote the objectives of the People First Waiver;
- Developing and disseminating aggregate reports showing uses (and costs) of services and other characteristics along with trends;
- Recommending system, service or provider changes based on utilization data and reports.

These functions may be carried out by the DISCO or subcontracted to another entity. Note that if utilization review is delegated, the contractor performing the utilization review must be reviewed by OPWDD and subsequently must be registered with SDOH as a utilization review agent in accordance with §4901 of the Public Health Law.

i. QUALITY ASSURANCE SYSTEM

The DISCO must have a quality assurance and performance improvement program and an approved written quality plan for ongoing assessment, implementation, and evaluation of overall quality of care and services. The quality assurance and performance improvement program must identify specific and measurable activities to be undertaken by the DISCO. The DISCO's written quality plan must meet the requirements of Article 44 of Public Health Law and implementing regulations and address the standards in 42 CFR 438.240 regarding quality assurance and performance improvement and must be reviewed and approved by the Commissioner of OPWDD in advance of operating approval.

The quality plan must provide for board level accountability for overall oversight of program activities and review of the QA/PI program, annual review and approval of the program, and allow for periodic feedback to the board from oversight committees. The goals and objectives for quality assurance and improvement activities should be reviewed and revised periodically, and be supported by data collection activities which focus on clinical and functional outcomes, encounter and utilization data, and client satisfaction data.

Quality indicators that are objective, measurable and related to the entire range of services provided by the DISCO should be established that focus on potential problem areas (high volume service, high risk needs or adverse outcomes). The review methodology should assure that all care settings will be included in the scope of the quality assurance and

performance improvement program. In addition, the DISCO must agree to cooperate with any external quality review conducted by or at the direction of OPWDD or the Department of Health.

The quality assurance manual (see Quality Assurance Guidance Attachment 5—under development) will include a discussion of how the DISCO will ensure adherence to applicable HCBS Waiver Assurances for enrollees who are also enrolled in the 1915 (c). The assurances are:

- Level of Care - Persons enrolled in the waiver have needs consistent with an institutional level of care
- Service Plan - Participants have a service plan that is appropriate to their need and that they receive the services/supports specified in the plan
- Qualified Providers - network providers are qualified to deliver services/supports
- Health and Welfare - Participants' health and welfare are safeguarded and monitored
- Financial Accountability - Claims for waiver services are paid according to approved payment methodologies in accordance with contracts.

j. MANAGEMENT INFORMATION SYSTEM

In keeping with information system policy for NYS, DISCO applicants must demonstrate how the organization will come into compliance with the current and future version of the Statewide Policy Guidance, which includes common information policies, standards and technical approaches governing health information exchange. It is expected that all successful DISCO applicants will come into compliance with these guidelines within 18 months of becoming operational. The guidance can be found at:

http://health.ny.gov/technology/statewide_policy_guidance.htm

A health information system must be maintained that collects, analyzes, integrates, and reports data. The system must provide information on areas including, but not limited to, utilization, grievances and appeals, and disenrollments for other than loss of Medicaid eligibility. At a minimum, each DISCO must comply with the following:

- Collect data on enrollee and provider characteristics, and on services furnished to enrollees through an encounter data system;
- Ensure that data received from providers is accurate and complete by:
 - Verifying the accuracy and timeliness of reported data;
 - Screening the data for completeness, logic, and consistency; and
 - Collecting service information in standardized formats to the extent feasible and appropriate.

All collected data must be made available to the State and upon request to CMS.

k. ADA COMPLIANCE PLAN

DISCOs must comply with Title II of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973 for program accessibility. As part of the DISCO application process an ADA Compliance Plan must be submitted that describes in detail how the MCO will make its programs and services accessible to and usable by enrollees with disabilities. The State has developed guidelines for ADA and Section 504 of the Rehabilitation Act of 1973 compliance. It is recommended that DISCOs review and use the guidelines in preparation of their ADA Compliance Plan. DISCOs must develop an ADA Compliance Plan consistent with SDOH guidelines which can be found in the Model Contract. The ADA Compliance Plan must be approved by OPWDD and filed with the state prior to the readiness review along with the completed ADA check list in Attachment 3.

II. REQUESTED INPUT FROM APPLICANT

a. SERVICE AREA

The service area means the geographic area, defined by counties or other geographic subdivisions, identified in the application for a certificate of authority to operate a DISCO for which there is identified a provider network capable of providing services of sufficient availability and accessibility to the projected enrolled population. Enrollment within the service area must be offered to any eligible persons who reside within the service area.

b. MARKETING STRATEGY

As part of the application process, the DISCO applicant must submit a marketing plan for approval and must describe the goals and general marketing strategy that will be used. Also, the DISCO must describe marketing activities and provide copies of all draft marketing materials. The marketing plan must describe how the DISCO's marketing activities will meet the informational needs of eligible persons, including those who speak a language other than English as a first language and/or who have a hearing, visual, physical or cognitive impairment, and how they will enable the person to make a voluntary and informed choice. See section III for specific limitation on marketing activities. The submission must include a description of the DISCO's monitoring activities to ensure compliance with state and federal requirements regarding marketing, and the identification of the primary marketing locations at which marketing will be conducted.

c. SELF-DIRECTION AND INDIVIDUALIZED BUDGETING

OPWDD is committed to making self-directed services available to all people who choose to enroll in a DISCO. As part of the application process, the DISCO will provide a description for how it will offer self-direction to all interested enrollees, how individuals and families will be educated about self-direction and the supports that will be made available to make self-direction accessible for the largest number of individuals possible.

d. PERSON-CENTERED PLANNING

The person served by the DISCO will have an Individualized Service Plan (ISP) that is developed by the care coordinator, the person and the person's circle of support. The DISCO will use a person-centered planning process to develop the ISP. As part of the DISCO application process, the DISCO applicant must describe how person-centered planning will be provided to the enrollee and how the use of person-centered planning principles will be promoted and supported within the organization. The description should include the training that will be made available for care management staff, individuals and families. The discussion should also address how the DISCO will ensure that the person-centered planning process incorporates measurable individual outcomes that are meaningful to the person and in the areas of home, health, meaningful relationships, and meaningful employment/community activities.

e. PROMOTION OF PRODUCTIVE COMMUNITY PARTICIPATION INCLUDING COMPETITIVE EMPLOYMENT

OPWDD's vision includes supporting individuals with Intellectual and Developmental Disabilities to fully participate in their communities including employment. As part of its application, the DISCO applicant will be asked to describe the process and methods that will increase volunteerism and employment for enrollees.

III. REQUIRED COORDINATION WITH STATE

a. MARKETING REQUIREMENTS AND TARGET POPULATION

In order to ensure that there is no coercion or distribution of inaccurate marketing information, the DISCO applicant must adhere to federal and state regulatory guidance regarding marketing practices (see 42 C.F.R. § 438.104 Marketing activities). The prohibited practices include but are not limited to:

- making unsolicited calls in person or by telephone or "cold calling" inquiries at the homes of eligible persons;
- marketing in-service delivery sites unless requested by the eligible person;
- requiring providers to distribute plan-specific marketing, promotional or informational materials of any kind to eligible enrollees;
- Inappropriate marketing and enrollment encounters such as: making false statements; deceiving, misleading or threatening an eligible person to influence or induce selection of a particular plan; discouraging enrollment on the basis of health or functional status or need for services.

During the application process, the DISCO applicant must describe the training that will be conducted for marketing staff and provide a description of how the DISCO will safeguard against conflicts of interest and preserve choice for people served. Given the scope of

change in the developmental disability field, a thorough description of the stakeholder communication plan must be provided.

b. ELIGIBILITY, ENROLLMENT, AND DISENROLLMENT

The DISCO must process applications for enrollment in the order in which they are received and must not discriminate on the basis of health status. Enrollment must be approved by the OPWDD regional office, and prior to enrollment in a DISCO each enrollee must sign an enrollment agreement which indicates that the enrollee:

- received a copy of the member handbook which included the rules and responsibilities of plan membership and which expressly delineates covered and non-covered services;
- agreed to the terms and conditions for plan enrollment stated in the member handbook;
- received a copy of the DISCO's current provider network listing and agreed to use network providers for covered services; and
- was advised of their projected date of enrollment.

A person may opt to disenroll from the DISCO for any reason, and the disenrollment will take effect no later than the close of the month following the month in which the request was made. The DISCO may also recommend that an individual be disenrolled involuntarily, but the OPWDD regional office will review any such recommendation and all due process rights must be provided to the enrollee, and services must continue until all appeals process have been concluded.

DISCO applicants must also provide a description of the process of disenrollment from the DISCO. Include in the disenrollment policy reasons for disenrollment and the procedure for voluntary and involuntary disenrollments. Enrollment/Disenrollment policy and procedures and the forms and notices the applicant intends to use to inform members of DISCO actions must be submitted and approved prior to the readiness review.

c. GRIEVANCE SYSTEMS AND MEMBER SERVICES

GRIEVANCE SYSTEM REQUIREMENTS

The DISCO will establish and maintain a procedure to protect the rights and interests of both enrollees and the DISCO by receiving, processing, and resolving complaints and appeals in an expeditious manner, with the goal of ensuring resolution of complaints/appeals and access to appropriate services as rapidly as possible.

All Enrollees must be informed about the Grievance System within their plan and the procedure for filing Complaints and/or Appeals. This information will be made available through the Member Handbook. Federal regulations in Subpart F of 42 CFR Part 438 apply

to both “expressions of dissatisfaction” by enrollees (grievances) and to requests for a review of an “action” (as defined in 438.400) by a DISCO (an appeal).

Grievances

Grievance – An expression of dissatisfaction by the member or a network provider on member’s behalf about care and treatment that does not amount to a change in scope, amount or duration of service. A grievance can be verbal or in writing. Plans cannot require that members put grievances in writing. Plans must designate one or more qualified personnel who were not involved in any previous level of review or decision-making to review the grievance, and if the grievance pertains to clinical matters, the personnel must include licensed, certified or registered health care professionals.

Appeal

Appeal - a request for a review of an action taken by the DISCO. The person enrolled in the DISCO has 60 business days after receipt of notice of grievance decision to file a written appeal. Appeal may be submitted by letter or on a form supplied by the plan. Upon receipt of a written appeal, the plan must decide if the appeal is expedited or standard appeal. A member or provider may also request an expedited review of a grievance appeal. The determination of a grievance appeal on a non-clinical matter must be made by qualified personnel at a higher level than the personnel who made the grievance determination. Grievance appeal determinations with a clinical basis must be made by personnel qualified to review the appeal, including licensed, certified or registered health care professionals who did not make the initial determination, at least one of whom must be a clinical peer reviewer.

Grievance and Appeal Reports

The DISCO must provide OPWDD on a quarterly basis, and within fifteen (15) business days of the close of the quarter, a summary of all grievance and appeals received during the preceding quarter using a data transmission method that is determined BY OPWDD. The DISCO also agrees to provide on a quarterly basis, within fifteen (15) business days of the close of the quarter, the total number of grievance or appeals that have been unresolved for more than thirty (30) days. The DISCO shall maintain records on these and other grievances or appeals, which shall include all correspondence related to the grievance or appeal, and an explanation of disposition. These records shall be readily available for review by DOH and OPWDD.

IV. IMPLEMENTATION SCHEDULE

As part of the DISCO application, an implementation plan must be provided that outlines the major steps being taken by the applicant to prepare its organization for participation in this program. Include a timetable showing when each step is expected to be completed.

V. INSTRUCTIONS FOR COMPLETING FORMS

The application process to become a pilot DISCO will require that applicants complete a certificate of authority application as is now done for entities seeking to become Managed Long-Term Care Programs (MLTCPs) under the auspice of DOH. Entities applying as a DISCO must complete **all** sections of this Certification Application including forms DOH-793A-MLTC/DISCO, 793B-MLTC/DISCO, 793C-MLTC/DISCO and 794-MLTC/CC. These forms and detailed instructions for completion are included in Attachment 4.

Successful applicants will be issued a Certificate of Authority and will be required to enter into a contract with the state before enrolling members. A readiness review will be conducted prior to a DISCO beginning enrollment. Additional programmatic requirements (e.g. policies and procedures, member materials) will be required before the readiness review. Many of these are noted in the instructions below.

- **ALL APPLICANTS:** The application must be submitted in an electronic format and must be submitted with Transmittal Letter. The Transmittal Letter must be signed by the Chief Executive Officer (CEO) or Chief Operating Officer (COO) or an individual who has been delegated the authority to sign for the CEO or COO and is authorized to make commitments on the organization's behalf. The Transmittal Letter must contain the following:
 - A statement attesting to the accuracy and truthfulness of all information contained in the proposal.
 - A statement that the applicant has read, understands, and is able and willing to comply with all standards and participation requirements contained in the applicable contract.
 - A statement the applicant acknowledges that, once certified, the DISCO will provide written notice to OPWDD immediately upon (A) the departure, resignation or termination of any officer, member of the board, member or manager of a limited liability company or the medical director, together with the identity of the individual; and (B) the hiring of an individual to replace an individual concerning whom notice is required under (A), together with the identity of the individual hired.
- Submit a completed DOH-793A-MLTC/DISCO form and include the signatures of the individuals who are authorized to submit an application on behalf of the proposed DISCO. An original form is required. The application must be signed by the CEO and, when applicable, the general partner (partnerships), owner (proprietorship), or chairman/CEO (public applicant). Provide the name, title and telephone number of a contact person for matters related to the application.

The application must be submitted to:

Contract Management Unit
Office for People With Developmental Disabilities
44 Holland Avenue, 3rd Floor
Albany, NY 12229