

STATE OF NEW YORK: COUNTY OF SUFFOLK  
SUFFOLK COUNTY BOARD OF ETHICS

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In the Matter of the Inquiry of  
[REDACTED] in Capacity of a  
Supervisory Official of Suffolk County  
Department of Social Services

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STATE OF NEW YORK: COUNTY SUFFOLK  
COUNTY BOARD OF ETHICS  
Advisory Opinion 2018-16  
September 5, 2018

**NOTICE: THIS ADVISORY OPINION IS SUBJECT TO REVISION OR WITHDRAWAL**

*Applications requesting its modification, clarification, or withdrawal must be made in accordance with Suffolk County Board of Ethics rules. Unless an application for the revision or withdrawal of an advisory opinion is timely received, it shall become final. Nothing shall prohibit the Suffolk County Board of Ethics, on its own motion, from reconsidering, revising or withdrawing an advisory opinion at any time.*

**Summary:** The Requestor, a Department of Social Services Supervisor, has submitted an advisory opinion request to the Suffolk County Board of Ethics as part of their approval process in determining their employee’s outside employment disclosure. The employee, in the job title of “Office Assistant in the Medicaid Bureau”, is seeking department outside employment approval as a weekend personal caregiver to a nephew who lives in Nassau and is enrolled in the CDPAP program<sup>1</sup>. Her job duties are clerical only and she has no interaction with the CDPAP Company who administers her nephew’s benefits. Her job duties do not include benefits approvals, interactions, or financial responsibility in vouchering or invoicing the County vendor.

The Board finds that the stated prospective outside employment does not create for the employee a business dealing and is not engaging in a business transaction with the County. In furtherance, the employee’s job duties do not require her to resolve ongoing billing issues or oversee services provided by the CDPAP Company thus the Board find no conflict of interest.

**Analyzed Laws and Rules:** The Laws of Suffolk County; Suffolk County Administrative Code XXX, Advisory Opinions; and Suffolk County Code Chapter 77 Sections 77-3(B) and 77-3(C).<sup>2</sup>

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<sup>1</sup> The CDPAP Company is “Attentive Care” with offices in Hicksville and Babylon. The requestor through fact finding has described the CDPAP program as, “the Consumer Directed Personal Assistance Program which is a Medicaid program that provides services to chronically ill or physically disabled individuals who have a medical need for help with activities of daily living. The purpose of the CDPAP program is to allow the consumer to hire a person they know and trust to provide care for them Chosen assistants can be siblings, children, friends, relatives, previously hired aides, or trusted neighbors”.

<sup>2</sup> § 77-3. PROHIBITED CONDUCT.

**B.** No public servant shall engage in any business, transaction or private employment, or have any financial or private interest which is in conflict with the proper discharge of his or her official duties.

**C.** No public servant shall use his or her official position or office, or take or fail to take any action, in a manner which he or she knows or has reason to know may result in a personal financial benefit to himself or herself, a person or firm associated with the public servant, a customer or client of the public servant or any person from whom the public servant has received a gift or any goods or services for less than fair market value,

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**Procedural History:** Fact finding concluded on 8/30/2018 and the Board vote occurred within the 45 days under Suffolk County Code occurring on 9/5/2018. The Board determined by majority vote that there is not a conflict under the facts presented.

**Opinion:** The Requestor, a Department of Social Services Supervisor, has submitted an advisory opinion request to the Suffolk County Board of Ethics as part of their approval process in determining their employee's outside employment disclosure. The employee, in the job title of "Office Assistant in the Medicaid Bureau", is seeking department outside employment approval as a weekend personal caregiver to a nephew who lives in Nassau and is enrolled in the CDPAP program<sup>3</sup>. Her job duties with the County are clerical only and she has no interaction with the CDPAP Company who administers her nephew's benefits. Her job duties do not include benefits approvals or financial responsibility in vouchering or invoicing.

The Board has opined previously to this department with respect to part time disability caretaker employment that pre-exists County employment. Recently, in the Board's, "Request for Review and Determination #2017-1(A)", it was determined that there was no conflict and that the employee had not impermissibly, "used his position" under *Suffolk County Code, § 77-3(C)*". Additionally, the Suffolk County Board of Ethics has opined it is not a conflict for family members of the Department of Social Services employees to receive county funding for caretaking. In SCBE Advisory Opinion #2015-19 the Board determined that, "The spouse of a Suffolk County Department of Social Services employee is not prohibited from receiving funds for their grandchild's legally exempt in home provider. The employee must recuse herself from the application and approval process of her spouse".

The Board views this current request similar to the above Board opinions and finds that the employee's job duties do not require her to resolve ongoing billing issues or oversee services provided by the CDPAP Company thus the Board find no conflict of interest.

As the employee's County job duties do not require her to interact with the CDPAP who administers her nephew's benefits in Nassau County, the Board finds no conflict of interest.

### CONCLUSION

The Board finds that the stated prospective outside employment does not create for the employee a business dealing and is not engaging in a business transaction with the County. In furtherance, the employee's job duties do not require her to resolve ongoing billing issues or oversee services provided by the CDPAP Company thus the Board find no conflict of interest.

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during the preceding 12 months.

<sup>3</sup> The CDPAP Company is "Attentive Care" with offices in Hicksville and Babylon. The requestor through fact finding has described the CDPAP program as, "the Consumer Directed Personal Assistance Program which is a Medicaid program that provides services to chronically ill or physically disabled individuals who have a medical need for help with activities of daily living. The purpose of the CDPAP program is to allow the consumer to hire a person they know and trust to provide care for them Chosen assistants can be siblings, children, friends, relatives, previously hired aides, or trusted neighbors".

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Pursuant to Suffolk County Board of Ethics Resolution 004/2013 passed on January 30, 2013, the requester shall have 15 business days from the time this Advisory Opinion has been rendered (excluding Saturday, Sunday, or a legal holiday) to file a request for reconsideration supported by new material facts submitted to the Board.

The forgoing is the opinion of the Board.

Dated: Great River, New York  
9/5/2018

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Eric A. Kopp – Chair