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CMS Feedback on the State's HCBS Transition Plan

The Federal CMS [Medicaid Website](#) has been updated to include CMS' comments on several State Transition Plans (STPs) to comply with the Federal Home and Community Based Settings (HCBS) Rule. Among those posted was [New York's](#).

The letter indicates that CMS requires much more detail on various elements of the [State's Transition Plan](#), which has already been revised once to address a request for greater details. Specifically, CMS has requested the state revise its plan and submit an updated plan by **December 1, 2015** that includes additional detail regarding the state's public comment process, the process it will use to assess settings for compliance, remedial actions the state will seek in those settings determined not to be in full compliance, and anticipated remedial actions to demonstrate to CMS that settings presumed to have institutional qualities are actually home and community based and compliant with the regulation. CMS also asks the state to expedite its timelines for assessing settings and when it expects to submit evidence to CMS on behalf of settings that are presumed to be institutional and subject to "heightened scrutiny" review from CMS. Under the regulations, the state is required to assess all of its settings that are subject to the Rule and indicate whether they are compliant with the Rule.

The HCBS Rule applies to 1915(c), 1915(i), and 1915(k) Medicaid Waiver Programs. In addition, CMS has said it will apply, through policy, to 1115(c) Waiver programs, which includes New York's comprehensive Medicaid Managed Care Waiver (known as the Partnership Plan). The comment letter from CMS indicates that it will apply to programs operating under the 1115 Waiver.

For more information on the State's plan, click [here](#).

For additional information on the Federal HCBS Rule, click [here](#).

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eMedNY Update

Important Notice Regarding New Managed Care Nursing Home (NH) Rate Codes

New York State Department of Health (NYSDOH) is yet to receive an approval for the new Managed Care Nursing Home (NH) Rate Codes (1821 - 1826) from CMS. In the meantime, the MMC plans are instructed to continue submitting their capitation claims for clients with N1-N5 Restriction/Exception code, using the mainstream managed care rate codes. Once CMS approves the NH rate codes, NYSDOH will initiate a retroactive claims adjustment for all the affected claims.

This will cause the processing of the paid capitation claims in history under the new NH Rate codes resulting in payment adjustment.

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DSRIP Update

Medicaid Members Website

The Medicaid Members section of the DSRIP website is now live and can be accessed [here](#). The section currently provides links to the DSRIP [opt-out letter](#) and [consent form](#) for Medicaid members.

PPS Implementation Plans and First Quarterly Reports Released

All Performing Provider Systems (PPS) Implementation Plans and First Quarterly reports have been posted to the DSRIP website [here](#). The Quarterly Reports will be used by the State to calculate the incentive payments based on progress achieved according to PPS project plans and milestones.

New Corporation VAP Exception Applications Available for Public Comment

Current PPS lead entities who decide to pursue different corporate structures to facilitate DSRIP implementation are permitted to submit new corporation VAP exception applications for safety net designation. PPS lead entities wishing to do so must submit their proposal and rationale for the new legal corporation to DOH for consideration. After departmental review, applications are posted for 30 day public comment period before they are sent to CMS for review and approval. Application guidance can be found [here](#).

Currently two VAP exception applications ([Bassett Medical Center](#) and [North Country Initiative, LLC](#)) have been posted [here](#) for public comment, and will be available until **November 11, 2015**. Comments may be submitted to dsrip@health.ny.gov with subject line: "VAP exception application public comment."

Medicaid/Medicare VBP Alignment Plan Public Comments

Public comments which were submitted to the Department regarding the Medicaid/Medicare VBP Alignment Plan have been posted on the Department website [here](#).

Year 1 Timeline Update

The DSRIP Year 1 Timeline has been revised to reflect updated deliverables and is now

available [here](#). The updates include the mailing of Phase I DSRIP Notice and Opt Out letters to Medicaid members has been moved to Mid-October 2015 and the time period for PPS Performance Network edits in MAPP has been extended until Mid-November.

Ambulatory Patient Group (APG) Website Updated

The APG website has been updated to reflect changes to [APG Rates by Provider](#), as well as a new version of the [3M APG Crosswalk](#) file (v3.10.15.4).

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Legislative Spotlight

Provided below are notable pieces of healthcare related legislation that were **delivered** to the Governor last week:

- [A.1327-A/S.4922-A \(Cahill/Hannon\)](#): This bill would require expedited utilization review and expedited external appeals for certain substance abuse and behavioral services which may be subject to a court order. It would require commercial health insurers to allow an individual who certifies that they may be subject to a court order requiring mental health and/or substance use disorder services, to avail the claim to the existing expedited utilization review process to determine if the court ordered services under consideration will ultimately be covered. The request would be eligible for an expedited external appeal if the initial review results in an adverse determination.
- [A.4140/S.2300 \(Gottfried/Hannon\)](#): This bill would make technical amendments to various sections of law (the education law, general business law, vehicle and traffic law) to remove the phrase “written collaborative agreement” and replace it with “nurse practitioner acting in his or her lawful scope of practice” in order to allow for a nurse practitioner to practice pursuant to a written practice agreement when applicable and in accordance with a collaborative relationship when applicable.
- [A.5125B/S.3482B \(Cusick/Lanza\)](#): This bill would amend the executive law governing local natural and man-made disaster emergency management plans. It would require comprehensive management plans for New York City to be coordinated with the advice, and assistance from organizations that provide home health care services and organizations that provide hospice services, in addition to the other entities already provided for by law. In addition, it would establish procedures for allowing access by physicians, nurses, medical professionals, personnel of CHHAs, LTHCPS, LHCSAs, and hospices in areas where access has otherwise been restricted or subject to curfew in declared emergencies. Finally, this bill would authorize New York City to formulate their own emergency management plan, while other cities must coordinate with their respective county plan.
- [A.7502/S.5346 \(Gottfried/Hannon\)](#): This bill would authorize the use of EQUAL funds for expenses incurred at any time during the fiscal year for which the funds were appropriated, provided that the facility’s Resident Council approval is obtained for the expenditure. The language resolves an issue in the recently enacted budget which disallowed EQUAL funds to be used for expenses incurred prior to the release of the application and funding.
- [A.7641/S.5738 \(Brennan/Ranzenhofer\)](#): This bill would change the effective date from January 1, 2016 to January 1, 2017 of the prohibition on not-for-profit employees serving as chairperson of the board of directors of a corporation. The Not-For-Profit Revitalization Act of 2013 contained a provision that will prohibit employees of a not-for-profit corporation from serving as chair of the not-for-profit's board of directors. As a result of this legislation, this provision would go into effect on January 1, 2017.

- [**S.676B/A.1323B \(Hannon/Rosenthal\)**](#): This bill would establish the CARE Act, which will require a general hospital to allow a patient an opportunity to designate, upon admission to a hospital, a caregiver in the patient's medical record. Hospitals would be required to notify and offer to meet with the designated caregiver to discuss the patient's plan of care prior to the patient's discharge or transfer to another facility. In addition, hospitals would be required to offer to adequately train the designated caregiver in certain aftercare tasks upon a patient's discharge to his or her current residence.
- [**S.3384/A.1054 \(Golden/Rodriguez\)**](#): This bill would create “free access” for managed care enrollees at an academic podiatry center. Services provided by such centers do not need to obtain prior approval from managed care plans or the state if it is a non-participating provider for a managed care plan enrollee. In addition, it would mandate the reporting of services provided at an academic podiatry center. Any D&TC providing podiatric services would be required to report to the Governor, Temporary Senate President and Assembly Speaker on the number of visits made by medical assistance and uninsured recipients at each facility.
- [**S.4324A/A.791C \(Hannon/Gunther\)**](#): This bill would require immunization against meningococcal disease for students entering, repeating or transferring into the seventh and twelfth grades and adds meningococcal disease to the list of school vaccination requirements.

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Upcoming Calendar

<p>Monday, November 9 & Tuesday, November 10</p>	<p>DSRIP Project Approval and Oversight Panel (PAOP) meeting with the Upstate-based PPS</p> <p>Monday, November 9 – All day Tuesday, November 19 – Half day</p> <p>The Egg Convention Center, Hart Theatre Lounge, Albany, NY</p>
<p>Wednesday, October 28 & Thursday, October 29</p>	<p>New York State HIV Advisory Body (HAB)</p> <p>October 28 at 10:30 a.m. October 29 at 9:00 a.m.</p> <p>TRYP Hotel, 345 West 35th Street, New York, NY</p>
<p>Thursday, October 29</p>	<p>Bureau of Tobacco Control and The New York State Tobacco Use Prevention and Control Advisory Board</p> <p>10:30 a.m. to 3:00 p.m.</p> <p>Empire State Plaza, Corning Tower Building, Conference Room 2876A, Albany, NY</p>

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