President Announces Cessation of Payment of Cost Share Subsidies

On October 12, 2017, President Trump announced that cost share reduction ("CSR") payments to health plans were never authorized by Congress and thus cannot lawfully be made. Based on this announcement, it appears that CSR payments will not be made to health plans beginning in November.

In New York, 85% of Essential Plan funding comes from the federal government, with 25% of this amount based on the value of cost share reductions that health plans would have received as cost share reductions if enrollees had enrolled in a silver QHP rather than the Essential Plan. The money goes to New York's BHP Trust Fund, which is then used to pay premiums to health plans. For 2017, the amount of funding expected to be received by the BHP Trust Fund for cost share reductions is approximated to be $870 million.

It is not entirely clear what impact President Trump's announcement may have on New York's Essential Plan market. For the 2018 plan year, it is possible that the cost share reductions would not be paid into the BHP trust fund, which would result in New York losing 1/4th of the funding for the Essential Plan. However, Essential Plan funding may be unaffected by the cessation of CSR payments, as the House of Representatives did not challenge BHP subsidies in its House v. Price litigation, which is, at least in part, the basis for Trump's announcement. Furthermore, the House has explicitly stated "a cessation of cost-sharing offset payments to insurers would have no impact on the amount of a state's BHP subsidy."

Presidential Executive Order Promoting Healthcare Choice and Competition

On October 12, 2017, President Trump issued an Executive Order directing the Departments of Labor, Treasury, and Health and Human Services to consider proposing regulations that would promote choice and competition. The Order directs the Department of Labor to consider regulations or guidance that would make it easier for associations to form single employer plans to cover employees of small businesses as single large group plans, free from many of the mandates of the Affordable care Act. The Order also directs all three agencies to consider lengthening the duration of short-term policies (which are not currently permissible in New York), and allowing employer contributions to Health Reimbursement Arrangements to be used to purchase individual coverage.

NYSOH Update

NY State of Health Enrollment Figures

The NY State of Health ("NYSOH") released enrollment figures through 2017.

The breakdown of enrollment as of October 4, 2017 is as follows:

- Total cumulative enrollment: 4,094,398
- Total Medicaid enrollment: 2,837,735
- Total Non-Medicaid enrollment: 1,256,663
    - - Qualified Health Plan: 227,796
    - - Essential Plan: 682,800
    - - Child Health Plus: 346,067

Enrollment the Essential Plan increased by 15,000 since the end of January 2017. Enrollment in a Qualified Health Plan stands at 94% of the enrollment level at the end of January 2017.

Full Meeting of the Public Health and Health Planning Council ("PHHPC")

Last week, the Public Health and Health Planning Council held a full council meeting in NYC. Immediately prior to the full council meeting, the PHHPC held special meetings of the Committee on Establishment and Project review and the Committee on Codes, Regulation and Legislation. A copy of the agenda can be found here.

During the special meeting of the Committee on Codes, Regulation and Legislation, the Committee heard reports from the Department of Health on one regulatory proposal for adoption ("Laboratory Business Practices"), which received a recommendation for approval from the Committee on Codes and full Council. The Committee on Codes, Regulation and Legislation also heard a report from the Department of Health on a regulatory proposal for information only ("Trauma Centers").

Sally Dreslin, from the Department of Health ("DOH"), provided an update on DOH activities, which included requesting a study from the CDC on human exposure to Perfluoroalkyl substances ("PFAS"), newly released NYSOH insurance rates and website updates, and progress towards developing the 2019-2024 prevention agenda. The updated prevention agenda will include a new NYS health assessment, and will incorporate "health across all policies" and also healthy "healthy aging" policies.

Dan Sheppard, from the Office of Primary Care and Health Systems Management ("OPCHSM"), recapped and updated regulatory modernization and reform recommendations that were developed during the September 2017 PHHPC retreat. These recommendations will be incorporated in the regulatory modernization initiative ("RMI") workgroup recommendations. The need methodologies and innovative models workgroup, which will meet in November and December, will have finalized recommendations by January 2018. A report from all RMI workgroups (post-acute care management models, need methodologies and innovative models, primary care & behavioral health integration, telehealth, cardiac services, and off campus emergency department) will be finalized by the end of the year. Policy recommendations will be implemented as soon as possible, regulatory recommendations will be rolled out in 2018, and statutory changes will be included as part of the 2018 legislative session. An overall RMI roadmap will be available for the January/February PHHPC cycle.

Other recommendations from the September PHHPC retreat included: 1) eliminate financial feasibility reviews for provider applicants that demonstrate financial stability, 2) eliminate CON for primary care clinic construction, and 3) eliminate CON for all construction projects that do not reflect changes in services.

Charlie Abel from the Department of Health provided the PHHPC with a semi-annual report on Ambulatory Surgery Center charity care and Medicaid utilization rates. The report includes the level of charity care and Medicaid services provided at ambulatory surgery centers operating under a limited life, extended limited life, and perpetual establishment.

Bradley Hutton from the Office of Public Health, provided the PHHPC with a summary of a draft proposal to incorporate public health initiatives into the CON review process. This proposal was developed in response to recommendations from the September 2017 PHHPC retreat. The proposal would apply to new providers seeking new establishment, as well as existing providers seeking to add or expand services. The new application process would require CON applicants to answer whether or not they are a member of the local Prevention Agenda coalition, how they are investing in community health improvement, what evidence based interventions they will use, how they have engaged local community partners, and what data will be used to track progress to advance the Prevention Agenda.

The department is considering phasing these public health requirements based on facility type, beginning with hospitals, followed by other entities such as diagnostic and treatment centers, ambulatory surgery centers, and nursing homes.

The full Council elected to approve all applications on the EPRC agenda.

The next PHHPC meeting is scheduled for Wednesday, September 20, 2017 in New York City.

DSRIP Update

DSRIP Integrated Behavioral Health Site Contracting and Credentialing Tracker

At Thursday's MMC P&P Meeting, Jason Helgerson confirmed there is no requirement for managed care plans to contract with DSRIP integrated behavioral health sites when the clinic was not already in the plan's network. DOH said they would provide plans with a list of these sites. There are currently 183 DSRIP integrated sites being reviewed by the State. The next round of sites will be sent to MCOs for contracting and credentialing shortly.

VBP Update

VBP Workgroup Meeting

On Monday, October 2, the full VBP Reform Workgroup met in Albany. The PowerPoint presentation from the meeting is attached. The purpose of the meeting was to review the final Clinical Advisory Group (CAG) Report of the Children's Workgroup; the proposed VBP Measure set revisions; MLTC implementation and quality measure updates; MCO survey results; and VBP Roadmap changes as part of the State's annual Roadmap update process.

Highlights from each portion of the meeting are discussed below.

Children's Advisory Group

The Children's CAG discussed its final report, which provides a framework with recommendations to guide VBP for the two million children in mainstream Medicaid Managed Care only (i.e., the recommendations do not apply to any of the children's Medicaid waiver populations currently exempt from managed care). These children are generally low utilizers of health care.

The CAG leaders discussed that typical VBP strategies are not well suited to children, as maximizing outcomes such as healthy growth and development that will create long-term value to Medicaid and other public systems require a longer horizon for assessing cost savings than traditional VBP. Greg Allen from DOH discussed that to incentivize children's VBP, the State may have to take savings from "the adult system" and reinvest it into arrangements for children.

The CAG recommended a new, voluntary, on-menu VBP Level 3 arrangement that allows MCOs and providers to enter into pediatric primary care capitation (PPCC) arrangements. The children involved would be those in the bottom 90th percentile of the MCO's overall cost/utilization distribution among children. Plans with withhold a portion of the PPCC rate to be disbursed based on improvement and high performance on all P4P measures. PPCC would only include pediatric services. Children in a PPCC arrangement would be carved out of a TCGP or IPC arrangement. The goal of this arrangement is to give providers additional flexibility to improve patient care and outcomes.

The CAG also introduced 8 new Category 1 and 6 new Category 2 quality measures that are part of a 20 measure "universal child measure set" that would be applicable to any TCGP, IPC, or PPC arrangement (see slides 27-33), and five measures (four Category 1) from the maternity measure set for inclusion in the TCGP measure set.

Members of the Workgroup commented that the CAG should perform some work around VBP for children with complex conditions.

Quality Measure Review

Dr. Doug Fish of DOH presented on proposed measure sets for 2018. Most of the proposed changes are new inclusions recommended by the Children's CAG. Notable changes to the TCGP/IPC set include the demotion of an OASAS measure from Category 1P4P to a Category 2 (Initiation of Pharmacotherapy for Alcohol Dependence) because the timeframe for measurement is too narrow, with the simultaneous elevation of Utilization of Pharmacotherapy for Alcohol Dependence from a Category 2 to a Category 1 P4R. Two measures that were completely removed from the set because of measure specification changes include "Avoidance of Antibiotic Treatment in Adults with Acute Bronchitis" and "Use of Imaging Studies for Low Back Pain".

In the HARP set, "Adherence to Antipsychotic Medications for Individuals with Schizophrenia" was added to Category 1. "Adherence to Mood Stabilizers for Individuals with Bipolar I Disorder" was downgraded from a Category 1 to a Category 2.

MLTC Update

DOH mentioned that sample contracting templates for home care agencies and nursing homes to achieve Level 1 VBP for MLTC are close to being finalized. DOH shared previously released guidance on MLTC CAG recommendations with respect to MLTC, including alignment of MLTC VBP Levels 2 and 3 with Levels 1 and 2 in mainstream VBP, as well as the continued work of MAP, PACE, and FIDA stakeholders to address VBP in fully-capitated MLTC.

With respect to the MLTC measures, a number of nursing home category 2 measures were recommended for P4P instead of P4R (see slide 76) while one Category 2 Measure ("Percentage of members who responded that a health plan representative talked to them about appointing someone to make decisions about their health if they are unable to do so") was removed from the set as the CAG determined this was a health plan requirement and was not an appropriate measure for a VBP contractor.

MCO Survey Results

DOH shared mainstream and MLTC VBP survey results. 38% of $22 billion in mainstream plan payments are at Level 1-3 for CY 2016, with another 13% at VBP Level 0. The overwhelming majority of VBP arrangements continue to be in TCGP across all mainstream programs. The bulk of payments (48%) remain in FFS arrangements.

With respect to MLTC Plans, only 8% of MLTC plans have already executed and completed all necessary VBP arrangements for the December 31, 2017 deadline, with seven plan CEOs responding their plans were "not ready for Level 1". The vast majority (60%) of plans surveyed remain in the planning phase, reporting they "intend" to pursue VBP with targeted providers (LHCSAs, CHHAs, and SNFs).

VBP Roadmap Changes

DOH did not discuss the VBP Roadmap changes during the meeting but sent a revised version of the Roadmap to members of the Workgroup for their review. The Roadmap changes include several clarifications to incorporate existing VBP policy around contracting for the Social Determinants of Health and with Community Based Organizations; clarification that the quality measures for calculating shared savings/losses must be in the contract; that at least one P4P quality measure approved by the State must be used to determine shared shavings or losses; that MCOs are responsible for reporting on quality measures (previously, the Roadmap simply said "VBP Contractors" are responsible); and that VBP contractors may exclude from their arrangements vision and dental services, among other services recommended for exclusion (i.e., transplant services).

Workgroup members were invited to submit comments by October 16. The next Workgroup meeting is scheduled for October 27 in Albany.

Managed Care Policy and Planning Meeting

On Thursday, the Department of Health held the monthly Policy and Planning Meeting with the State's Medicaid Managed Care plans. Some highlights from the meeting include:

- Mainstream Enrollment: Statewide enrollment for September was 4,370,138, with 2,588,514 in NYC and 1,781,624 Upstate. Statewide enrollment decreased by 11,735 since August (4,381,873), and has now decreased by 41,131 since July. Decreases occurred both downstate and upstate. DOH is unaware of the specific reasons for the decline and said they do not believe it is being caused by any systems issues.
- MLTC Enrollment: Now at 208,561, an increase of 2,666 from the enrollment reported at last month's meeting (205,895). Enrollment continues to steadily climb after leveling off in January, February and March, when monthly growth was closer to 1,500 members per month, compared to 2,500 members per month for most of 2015 and 2016. Virtually all new enrollment continues to be in the partially capitated program, which has 189,071 members, an increase of 2,445 from a month ago (186,626 members) and 184,843 just two months prior. Most of this growth continues to be in NYC and Long Island. All MLTC programs experienced month-to-month growth with the exception of FIDA and PACE, with MAP (8,598 vs. 8,356), PACE (5,701 vs. 5,705) FIDA (4,566 vs. 4,610) and FIDA IDD (625 vs. 598).
- FIDA: Five FIDA plans are leaving the market/and or reducing their service areas, including Aetna, Guildnet (Nassau County only), Fidelis, ICS, and NSLIJ. One plan is moving through the approval process to begin enrollment in Westchester and Suffolk County.
- HARP Enrollment: Statewide HARP enrollment is now 99,346 through October 6, 2017. OMH estimates an additional 25,000-30,000 HARP eligibles are on the NYSOH and will migrate to HARP once HARP gets loaded onto the NYSOH.
- HARP MLR: The State will not apply recoveries against plans that underspent their BHET/HARP MLR for 2016. OMH said it is their intention to move forward with applying recoveries for 2017 based on guidance for 2016. OMH will provide plans with information regarding what the 2016 recoveries would have looked like had it been applied for planning purposes.
- Medicaid Mental Health Parity: The State has requested an eight-month extension for posting the State's Parity Analysis and has engaged a consulting group to assist the group in developing and executing the analysis.
- NHTD & TBI Waiver Transition to Managed Care: The Waiver transition stakeholder group continues to meet. At its most recent meeting (September 26th), Workgroup members discussed conflict of interest issues relating to service coordination vs. care management activities. The TBI Waiver was recently extended for an additional five years while the NHTD Waiver is in

temporary extension until January 17, 2018. Both Waivers are scheduled for January 1, 2019 carve-in to MMC.

- New Telehealth Incentive for Managed Care Plans: Plans must submit their Telehealth Innovation Plans in conjunction with telehealth specific in-lieu of services (ILS) requests by December 1, 2017. DOH will award 5 QARR points to plans that implement a meaningful telehealth program. An additional point (6 points total) will be awarded to plans that use telehealth for children less than 3 years of age or for high-risk pregnant women to align with DOH's new "1,000 days initiative". Plans will be required to report quarterly on the telehealth program and their implementation progress.
- Minimum Wage Schedule: Plans once again asked DOH to provide a schedule similar to last year identifying the additional funds plans are receiving for minimum wage and what providers must receive in their rates as the pass-through amount.
- CDPAS Wage Parity and Authorization Updates: Compliance with the Home Care Worker Wage Parity Statute began for workers providing CDPAS October 13, 2017. A third and final survey was distributed to plans September 28th soliciting contract review updates.

Future of Integrated Care: Session 3

The Department of Health Division of Long Term Care and CMS have opened registration of the third meeting for the stakeholder series on the future of integrated care in New York State. The sessions are designed to facilitate the conversation on how to plan for the State's Medicare-Medicaid integrated care programs after the conclusion of the Fully-Integrated Duals Advantage ("FIDA") program in 2019.

Due to space constraints, the Department has limited in-person attendance to only two representatives from each organization. Stakeholders will also be permitted to attend via webinar/conference call.

Dates and topics for the remaining sessions are listed below.

Date
Location
Topics

November 16, 2017
11:30am-2:00pm
Albany or Rochester, TBA

1) Payment and Rate Considerations
2) Outreach, Education, and Engagement of Participants and Providers
3) MCO/Plan Requirements and Qualifications
4) Enrollment

December 8, 2017
11:30am-2:00pm
New York City

1) Geographic Scope
2) Consolidation of Existing Programs
3) Platform for Integrating with Medicare
4) Considerations for Transition

Fiscal Intermediary Authorization

The Department of Health has created a new MRT webpage to post information regarding Fiscal Intermediary ("FI") Authorization. The new webpage currently includes links to FI authorizing statutes

and FI related Medicaid Update policies, however, it is expected to be updated with additional pertinent information as it becomes available. The page can be found here.

HCBS Provider Organizational Culture Training

The Department of Health and Public Consulting Group will be conducting two training sessions for Home and Community-Based Services ("HCBS") provider **executive-level staff** on "Creating a Shift in Organizational Culture." Included will be an overview of the HCBS Final Rule, its intersection with other regulations, person-centered planning, and a discussion on achieving individual and systemic change within your organization. This training will be held in-person in Albany and New York City.

Location: New York City
Date: Monday, November 6, 2017
Time: 1:00 p.m. - 3:00 p.m.

Location: Empire State Plaza Corning Tower, 14th Floor, Conference Room 1, Albany, NY
Date: Wednesday, November 8, 2017
Time: 1:00 p.m. - 3:00 p.m.

Provider executive staff interested in attending must RSVP by **October 20** by clicking here. Questions should be directed to Mark.Kissinger@health.ny.gov.

Regulatory Modernization Update

Cardiac Need Methodology Workgroup Meeting

The first meeting of the Regulatory Modernization Initiative Cardiac Need Methodology Workgroup will be **Monday, October 16, 2017** from **10:30 a.m. to 3:00 p.m.** in Meeting Room 6 of the Empire State Plaza in Albany. Dr. John Morley, Chief Physician Executive, Population Health for the Adirondack Health Institute will be leading the discussion along with Dr. Marcus Friedrich, Chief Medical Officer, Office of Quality and Patient Safety.

Interested parties should RSVP with "Cardiac" in the subject line to RegulatoryModernization@health.ny.gov. Attendees and other interested parties are also encouraged to submit written comments either before or after the Workgroup meeting to RegulatoryModernization@health.ny.gov.

Medicaid Drug Cap FAQs #2

A second set of Frequently Asked Questions ("FAQ") regarding the Medicaid Drug Cap have been posted to the DOH web site, here. Additional questions should be sent via email to MADrugCap@health.ny.gov. The FAQ documents will be updated as new questions are submitted.

September 2017 Medicaid Update

DOH has released the September 2017 edition of its monthly Medicaid Update publication.

Some of the highlights include:

- New Medicare Card Replacement Initiative: The national effort to remove references to Social Security Numbers (SSNs) from all Medicare Cards by 2019 is now known as the New Medicare

Card replacement initiative. A new Medicare Beneficiary Identifier ("MBI") will replace the existing SSN-based Health Insurance Claim Number ("HICN"). The MBI will be used for all Medicare transactions including eligibility status, claims, and billing. CMS will begin issuing MBIs and mailing new Medicare cards to active beneficiaries in **April 2018**. Additionally, inactive Medicare beneficiaries will have an MBI assigned to their historical record but will not receive a new Medicare card. In preparation for the national transition from HICN to MBI, all state agencies need to ready their respective Medicaid Management Information System ("MMIS") and all associated downstream data systems to support usage of the MBI for "dual eligible" (Medicare and Medicaid) beneficiaries. The NYS Department of Health is making programmatic changes in eMedNY in advance of the October 2017 testing deadline and likewise anticipates working with its Medicaid managed care organizations, providers, and other stakeholders to ensure a smooth transition. Downstream data partners are expected to make similar programmatic changes to their respective systems and to likewise work in concert with their respective stakeholder community. For more information, click here.

- NYS Medicaid FFS Program Pharmacists as Immunizers Fact Sheet: NYS Education Law and regulations permit licensed pharmacists who obtain additional certification to administer the following vaccines: Influenza, pneumococcal, meningococcal, tetanus, diphtheria, and pertussis vaccines when administered to patients 18 or older, and Zoster vaccines, pursuant to either a patient specific order or a non-patient specific order. Administration of select vaccines by qualified pharmacists employed by, or under contract with, Medicaid enrolled pharmacies is reimbursable under NYS Medicaid. For more information on applicable conditions and billing instructions, click here.
- Reminder: Federal Mandate Regarding Copay Nonpayment: The NYS Medicaid Pharmacy Program has been notified some pharmacies are refusing to dispense medications to patients for their inability to pay the copayment. Federal law specifies that no Medicaid enrolled provider may deny care or services to an individual eligible for such care or services on account of such individual's inability to pay a deduction, cost sharing, or similar charge. This Federal law applies to all Medicaid providers, both fee-for-service and managed care. Providers may attempt to collect outstanding copayments through methods such as requesting the co-payment each time the member is provided services or goods, sending bills or any other legal means.
- Guidance Billing Reminder for all Vision Care Providers: All fee-for-service ("FFS") Medicaid providers are reminded to include the rendering provider ID or NPI on claims where the rendering provider is not the same as the billing provider. This applies to Optical Establishment providers enrolled with Category of Service 0401, 0402 or 0423 that employ Licensed Ophthalmic Dispensers (opticians) AND/OR Licensed Optometrists. Providers exempt from this rule include: Self-employed Ophthalmic Dispensers (opticians) enrolled with Category of Service 0404, Eye Prostheses Fitters with category of Service 0405 and Self-employed Optometrists enrolled with Category of Service 0422. Services rendered to Medicaid members at the service address may not be billed through any other provider number. For more information, click here.
- Integrated Services: Guidance for Licensed/Certified Facilities, including Billing under FFS and Medicaid Managed Care: This article informs providers about delivery of and billing for integrated services under fee-for-service ("FFS") for sites using Ambulatory Patient Groups ("APGs") and clarifies which providers can offer integrated services, the amount of integrated services that can be delivered, licensure requirements, and the mechanisms for billing such services. This article also informs Managed Care Organizations ("MCOs") about integrated services and the various ways providers are authorized to offer such services and the associated billing guidance that applies to integrated services providers. For this detailed overview, click here.

Assembly Hearing on Healthcare in NYS Correctional Facilities

The NYS Assembly Committees on Health and Correction will be hosting a public hearing on healthcare in NY correctional facilities to examine health care issues in state and local correctional facilities, including: adequacy of care, treatment of communicable diseases, women's healthcare, administering medication, and long-term care; use of for-profit health care contractors; health care facility placements for inmates leaving incarceration; and potential Medicaid coverage for incarcerated individuals.

The hearing will take place on **Monday, October 30, 2017** at **11:00 a.m.** in Hearing Room C of the Legislative Office Building in Albany, NY.

Persons invited and wishing to o participate in the hearing should complete and return the public hearing reply form as soon as possible. Oral testimony will be limited to ten minutes, and all testimony will be under oath.

Health Home Update

Continuity of Care and Re-engagement for Enrolled Health Home Members

A newly released Health Home policy, Continuity of Care and Re-engagement for Enrolled Health Home Members (HH0006), went into effect **October 1, 2017**. The new policy supersedes policies 3.7 and 3.8 in the Health Homes Provider Manual, and provides guidance to Health Homes regarding measures that must be taken to locate and re-engage enrolled members upon determining that continuity of care management services has been disrupted, and to prevent the potential for future disengagement.

Health Home Comprehensive Assessment Policy (Adult and Children)

The newly released Health Home policy, Health Home Comprehensive Assessment Policy (Adult and Children) (HH0002) establishes standards and guidance regarding the Health Home comprehensive assessment which will inform NYS Health Home and Care Management Agencies' policies and procedures. Effective dates of this policy were **June 1, 2017 (Adult)** and **October 1, 2017 (Children)**.

Questions about the ***Health Home Comprehensive Assessment Policy*** should be directed to the DOH Health Home team here, with "Health Home Policy" in the subject line.

Final Application Documents for Health Homes Serving Individuals with Intellectual and/or Developmental Disabilities (Care Coordination Organization/Health Home (CCO/HH))

The Department of Health has published the final Care Coordination Organization/Health Home (CCO/HH) Application to Serve Individuals with Intellectual and/or Developmental Disabilities (I/DD), as well as the response to public comment on the draft Application. These documents are available here.

Regulatory Updates

Department of Financial Services

Standards for Financial Risk Transfer Between Insurers and Health Care Providers (A)

The Department of Financial Services recently issued notice of adopted rulemaking that amends Insurance Regulation 164 to expand the definition of "intermediary entity" to include Accountable Care Organizations ("ACOs") as defined by the ACO regulation and thereby permit insurers to enter into financial risk transfer arrangements with ACOs that are certified pursuant to Article 29-E and the ACO regulation. Insurance Regulation 164 previously did not address financial risk transfer arrangements specifically between insurers and ACOs.

The adopted rulemaking contains no changes from the original proposal published in the May 3, 2017 edition of the *New York State Register*.

Department of Health

Hospital Indigent Care Pool Payment Methodology

The Department of Health recently issued a notice of adopted rulemaking that extends the distribution methodology for indigent care pool payments to general hospitals for another three-year period, from January 1, 2016 through December 31, 2018. The regulation does not make any changes to the current Medicaid disproportionate share hospital ("DSH") payments of: $139.4 million to major public general hospitals, including hospitals operated by public benefit corporations and $994.9 million to general hospitals, other than major public general hospitals. The regulation does, however, increase the transition factor cap from 7.5% to 10%.

The adopted rulemaking contains no changes from the original proposal published in the June 21, 2017 edition of the NYS Register.

Legislative Spotlight

Bills that have passed both houses of the Legislature continue to be delivered to the Governor in batches over the next several months. Once a bill has been delivered to the Governor, he has 10 days (excluding Sundays) to either sign the bill into law or veto the bill.

Here are notable pieces of legislation that were recently delivered to the Governor:

- A.6371-B/S.5171-B (Simanowitz/Felder)**:** This Bill would authorize pharmacists to refill non-controlled substance prescriptions in a quantity greater than the initial quantity of the prescription, up to a 90-day supply.
- A.7509-A/S.4788-A (Gottfried/Hannon)**:** This Bill would authorize the substitution of interchangeable biological products and establish minimum requirements for the substitution by pharmacists.
- A.8264/S.6572-A (Cahill/Seward)**:** This Bill would authorize the continuation of the "grandfathering" legislation that allows stop loss, catastrophic and reinsurance coverages to remain in effect for small groups, if such coverage were in effect on January 1, 2015, despite a general prohibition which would prevent insurers from selling this kind of coverage to groups

with between 51 and 100 employees or members as of January 1, 2016. The legislation would also extend the exception permitting municipal corporations and schools that are currently members of municipal cooperative associations to continue as members of such cooperatives without applying insurance provisions applicable to small groups to the larger cooperative. As a result of this Bill, businesses between 51-100 covered members and municipal corporations, as long as they kept their coverage in effect, would continue to be permitted to self-insure their employees through 2019.

- A.5950-A/S.2411-A (Lavine/DeFrancisco)**:** This Bill would establish a tax credit, beginning in 2018, of up to $2,750 for a newly constructed principal residence, or, for a renovated principal residence, 50% of the amount expended, not to exceed $2,750, for universal visitability, allowing individuals to make residences accessible and user friendly for senior citizens and others with limited mobility. Eligibility requirements for claiming the tax credit would be established though guidelines by the Department of State Division of Code Enforcement and Administration.
- S.4557-B/A.6120-B (Ortt/McDonald)**:** This Bill would establish a process for Medicaid beneficiaries to access complex rehabilitation technology ("CRT") comparable to the current process applicable to Medicare. The Bill would also require the Department of Health to update Medicaid billing codes for CRT with the new codes added for CRT to the Medicare billing system. For Medicaid managed care, the Bill would require that DOH establish minimum benchmark reimbursement rates to be paid by managed care plans for CRT.
- S.5016-A/A.6549-A (Lanza/Cusick)**:** This Bill would require that comprehensive emergency management plans developed by municipalities shall include input and assistance from home health care and hospice services providers. The Bill would provide that input from home care and hospice providers may include procedures to grant providers essential access during an emergency.
- S.6053/A.8051 (Hannon/Gottfried)**:** This Bill would prohibit health insurers from requiring a prior authorization determination for services provided in a neonatal intensive care unit ("NICU") of a general hospital. The Bill would expressly provide that health insurers are permitted to subsequently deny a claim for NICU services if the services are determined to be not medically necessary.

Upcoming Calendar

Tuesday October 17, 2017

State Trauma Advisory Committee (STAC)

1:30 p.m. (subcommittees meeting between 8:00 a.m. and 1:30 p.m.)

Hilton Garden Inn, 235 Hoosick Street, Ferris Ballroom A, Troy, NY

Wednesday, October 18, 2017

NYS Board of Examiners of Nursing Home Administrators

10:30 a.m.

New York State Department of Health, 875 Central Avenue, Main Conference Room, Albany, NY

Thursday October 19, 2017
Drug Utilization Review Board (DURB)

9:00 a.m. to 4:00 p.m.

Empire State Plaza, Concourse Level, Meeting Room 6, Albany, NY

Monday, October 23, 2017

Pharmacy Advisory Committee (PAC)

10:30 a.m. to 3:00 p.m.

One Commerce Plaza (99 Washington Avenue), Conference Room 1613, Albany, NY

Monday, October 30, 2017
Assembly Hearing on Healthcare in NYS Correctional Facilities

11:00 am

Legislative Office Building, Hearing Room C, Albany, NY