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NY State of Health ("NYSOH") Update

NY State of Health Releases First Month Snapshot of 2018 Open Enrollment

NY State of Health has <u>announced</u> that more than 45,800 new enrollees have enrolled in coverage in the first four weeks of the 2018 open enrollment. This includes nearly 14,500 consumers who have enrolled in a Qualified Health Plan ("QHP") and 31,350 who have enrolled in the Essential Plan.

The NYSOH also reports that enrollment during the first four weeks of the 2018 open enrollment period is outpacing last year by about 13%. More than 140,000 consumers have already renewed coverage or newly enrolled in a QHP for 2018 and Essential Plan enrollment has reached nearly 700,000. According to data released by the Centers for Disease Control and Prevention ("CDC") in early November, New York's uninsured rate is at 4.7%.

Assembly Health
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Updates

NY State of Health Conducting Statewide Ad Campaign for 2018 Open Enrollment Period

NYS Division of Budget

NY State of Health <u>announced</u> the launch of its advertising campaign for the 2018 open enrollment period. The campaign, called "4 Million Reasons," features the stories of New Yorkers from across the state who have enrolled in a health plan through NY State of Health. The ad campaign will run on TV, radio, digital and print outlets through the end of the Open Enrollment period, January 31, 2018.

The advertising rollout schedule is:

- Digital Launched on November 1
- TV/Radio Launching November 13
 - TV spots can be viewed here
- Print (including 71 ethnic news outlets) Launching November 20

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VBP Updates

2018 VBP Quality Measure Sets

The Department of Health has announced the release of the 2018 Value Based Payment (VBP) Quality Measure Sets for the Total Care for the General Population ("<u>TCGP</u>"), Integrated Primary Care ("<u>IPC</u>"), Health and Recovery Plan ("<u>HARP</u>") Subpopulation, <u>HIV/AIDs Subpopulation</u>, <u>Maternity Care</u>, and Managed Long Term Care ("<u>MLTC</u>") Arrangements.

These documents provide the listing of measures for the 2018 VBP contracting year including all Category 1 and Category 2 measures included in each Arrangement. The document can be found in the <u>VBP Resource Library</u> under the VBP Quality Measures tab: MY 2018 Quality Measure Sets.

All questions can be sent to the New York State Department of Health at vbp@health.ny.gov.

Additional NYC VBP Bootcamp

The Department will be hosting a second Value Based Payment Bootcamp in New York City on **January 9, 2018** at the New York Academy of Medicine (1216 5th Ave, New York, NY 10029). This session will include the same information presented at the previous Bootcamps that were held between October and November.

Registration for this event will open on December 19, 2017 and will close on January 2, 2018.

The schedule for the day as well as the description and intended audience for each of the breakout sessions can be found <u>here</u>. When registering, participants are asked to pre-select the courses they wish to attend for the day.

Registration information will be sent when it becomes available. Questions can be sent to VBP@health.nv.gov.

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Revised Final Draft Transition Plan for the Children's Medicaid System Transformation

The Department of Health has released a revised version of the <u>Final Draft Transition Plan for</u> the <u>Children's Medicaid System Transformation</u>. The document has been revised to reflect accurate dates for Level of Care ("LOC") implementation of DD MF and DD FC criteria on pages 27 & 28.

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Regulatory Modernization Update

The second meeting of the Regulatory Modernization Initiative – Long Term Care Need Methodologies and Innovative Models Workgroup will be Tuesday, December 12, 2017 from 11:00 a.m. to 1:30 p.m. in Meeting Room 6 of Empire State Plaza in Albany.

RSVP at RegulatoryModernization@health.ny.gov with "LTC" in the subject line.

Meeting materials for the first meeting of the **Long Term Care Need Methodologies and Innovative Models Workgroup** have been posted <u>here</u>.

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Future of Integrated Care: Session 5

The Department of Health Division of Long Term Care and CMS have opened registration of the fifth 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.

Topics covered in this session include: 1) Geographic Scope; 2) Consolidation of Existing Programs; 3) Platform for Integrating with Medicare; and 4) Considerations for Transition.

The meeting will take place Friday, December 8, 2017 from 11:30 a.m. to 2:00 p.m. in Rooms 1-2 on the 30th floor of 290 Broadway (at Duane Street) in New York City.

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.

Organizations planning to attend the **December 8** session in person should, **RSVP no later than December 4** with the first and last names of attendees to <u>futureofintegratedcare@health.ny.gov</u>. Only those individuals listed on the building's security sheet will be permitted to enter the building. The Department has cautioned that substitute attendees will not be permitted.

To register for the online event, click <u>here</u>.

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Designated LTC WIO & Plan Guidance

The Department of Health has published a new designated <u>Long Term Care Workforce Investment Organization ("LTC WIO") & Plan guidance document</u>. The guidance clarifies the parameters of the designated LTC WIOs and Plan partnership development.

The guidance indicates that the Department will provide the LTC WIOs and Plans with a contract outline, which will include the minimum criteria for an acceptable contract. While the Department will not be providing a contract template, the outline will include the essential elements to be incorporated in the contracts executed by LTC WIOs and Plans. The Department has indicated that it intends to post the contract outline, as well as information about our funding methodology, in the coming weeks.

A <u>list of designated LTC WIOs by region</u>, along with the point of contact for each, has also bee published. There is significant diversity amongst the designated LTC WIOs, from innovation and curricula to available platforms and suggested metrics. Plans should consider these diversities in determining the LTC WIOs best suited for the needs of their workforce when developing partnerships.

Questions and comments should be sent to MLTCWorkforce@health.ny.gov.

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OMIG Updates

<u>Compliance Program Certification Information for 2017 Now Available on the OMIG Website</u>

Compliance Program Certification information and forms for 2017 are now available on the New York State Office of the Medicaid Inspector General's (OMIG) Certification Page under the "SSL" certification tab. Please note that the "12/2016 revised date" that appears at the top certification page merely indicates the last date the certification form was updated—it is not the certification for 2016. Entities subject to the compliance certification requirement should use the current online form to complete the annual certification for 2017.

As a reminder, all New York State Medicaid providers (and managed care plans) who are subject to the mandatory compliance program obligation set out in NYS Social Services Law Section §363-d and 18 NYCRR Part 521 must certify annually during the month of December that they have adopted and implemented a compliance program that meets all statutory and regulatory requirements via the certification form on the OMIG website. Those entities that are subject to the mandatory compliance certification requirement include:

- Article 28 providers (e.g., hospitals, D&TCs, clinics, and skilled nursing facilities);
- Article 36 providers (CHHAs and LHCSAs);
- Article 16 and 31 providers (OASAS and OMH licensed and certified programs); and
- Any person or provider or affiliate (including MCOs) who either has claimed or reasonably expects to claim \$500,000 in Medicaid payments in any consecutive twelve month period. This would include pharmacy providers and drug manufacturers, DME suppliers, primary care practitioners, surgical specialists, assisted living program providers (ALPs), or any Medicaid provider or MCO who meets the \$500,000 standard.

Providers that bill or claim for services under more than one FEIN or SSN may be able to submit one certification covering all of their FEINs/SSNs subject to the compliance requirement. Providers can take advantage of this if the compliance program they are certifying to applies to all FEINs or SSNs; the reason for certifying is the same among all the FEINs/SSNs (i.e., they are certifying to complete the annual December certification); the Compliance Officer and the Certifying Official are the same for all FEINs and SSNs; and all the answers to the eight Compliance Questions that ask whether the compliance program satisfies each of the eight elements are answered the same.

Now that certification form for 2017 is "live", **providers subject to the certification** requirement have until December 31, 2017 to complete the certification. In addition to the certification required under NYS Social Services Law Section §363-d, those providers that make \$5 million or more in Medicaid payments during the Federal fiscal year (October through September) will also need to complete a separate Federal Deficit Reduction Act of 2005 (DRA) Certification that is also available on the OMIG website. Similar to the NYS certification obligation, providers subject to the DRA must complete the DRA certification on or before January 1.

Additional guidance materials on OMIG's compliance requirements are available <u>here</u>.

OMIG Webinar on the OMIG Certification Process: Mandatory Compliance Programs & Deficit Reduction Act of 2005

Last week, OMIG posted a webinar *OMIG's Certification Process*: <u>Mandatory Compliance Programs & Deficit Reduction Act of 2005</u>. This webinar provides links to resources for the OMIG Certification process required by Social Services Law Section 363-d and 18 NYCRR Part 521 (SSL) compliance program and certification obligations and the federal Deficit Reduction Act of 2005 (DRA) obligations that are codified in 42 United States Code Section 1396a(a)(68). The webinar includes tips for completing the OMIG and the DRA certification forms.

Questions about the webinar or compliance certification in general should be directed to OMIG's Bureau of Compliance at (518) 408-0401 or via email at: compliance@omig.ny.gov.

2017 Managed Care Annual Program Integrity Report

OMIG has posted the 2017 Annual Program Integrity Report Information and Submission Instructions to its website, here.

The **Annual Program Integrity Report** must be submitted to OMIG between January 1, 2018 and January 31, 2018.

This reporting obligation only applies to MCOs and MLTCs pursuant to the Medicaid Managed Care Contract at Section 18.5 (a)(xix), and the Managed Long Term Care Partial Capitation Contract at Article VIII, Section F (3)(e). This reporting obligation does not apply to other Medicaid provider types.

Questions or comments in connection to the Managed Care Annual Program Integrity Report form or the reporting instructions should be submitted by email to mcopireport@omig.ny.gov or by phone at 518-408-0692.

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August 2017 Medicaid Global Cap Report

The <u>August 2017 Global Cap Report</u> was recently posted on the on the Medicaid Redesign Team ("MRT") <u>website</u>. The 2018 state budget extended the Global Spending Cap through March 2019. Pursuant to legislation, the Global Spending Cap has increased from \$18.6 billion in FY 2017 to \$19.5 billion (including the Essential Program) in FY 2018, an increase of 5.2 percent.

Total State Medicaid expenditures under the Medical Global Spending Cap for FY 2018 through July resulted in total expenditures of \$9.012 billion, which was \$25 million *above* the \$8.985 billion target.

Medicaid spending in major Managed Care categories was \$51 million *over* projections. Mainstream Medicaid Managed Care was \$16 million *over* projections through August. Long Term Managed Care spending was \$35 million *over* projections. Medicaid spending in major fee-for-service categories was \$51 million (1.4%) *over* projections.

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"First 1,000 Days" Facebook Event

Kate Breslin, co-Vice Chair of the <u>First 1,000 Days on Medicaid</u> initiative, and NYS Medicaid Director Jason Helgerson will be hosting a conversation about the genesis of the project, the tenpoint plan developed by stakeholders and the next steps.

To access the program, connect with the Schuyler Center <u>Facebook page</u> on **December 13 at 1:15 p.m**.

In August, NYS convened the "First 1,000 Days on Medicaid" initiative to generate recommendations to improve health for young children covered by Medicaid – with explicit interest in outcomes that are long-term and cross-sector, and extend beyond health and medical issues.

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Assembly Public Hearings Scheduled

Housing for Individuals with a Mental Illness or Developmental Disability

On **Monday December 11, 2017, at 10:00 a.m.**, the Assembly Standing Committee on Mental Health And Developmental Disabilities will be hosting a <u>public hearing</u> to examine the adequacy of housing opportunities for individuals who are receiving services and supports from the Office of Mental Health ("OMH") or the Office for People with Developmental Disabilities ("OPWDD") in the context of the funding provided in the State Fiscal Year (SFY) 2017-18 budget.

The hearing will take place in the Legislative Office Building, Hearing Room C, Albany, NY. Persons invited and wishing to participate in the hearing should complete and return the <u>public hearing reply form</u>. Oral testimony will be limited to ten minutes.

Adequacy of Funding for Prevention, Treatment, and Recovery Services

On **Tuesday December 12, 2017, at 1:00 p.m.**, the Assembly Standing Committee on Alcoholism and Drug Abuse will be hosting a public hearing to examine the adequacy of funding

for prevention, treatment, and recovery services within the State Fiscal Year (SFY) 2017-2018 Enacted Budget

The hearing will take place in the Assembly Hearing Room 19th Floor, 250 Broadway, New York, NY. Persons invited and wishing to participate in the hearing should complete and return the <u>public hearing reply form</u> by Friday, December 8 at 1:00 p.m. Oral testimony will be limited to ten minutes.

Examination of Non-Medical Programs that Support Seniors in the Community

On **Wednesday December 6, 2017, at 11:00 a.m.**, the Assembly Standing Committee on Aging will be hosting a <u>public hearing</u> to explore the ways in which community-based non-medical services and programs provide cost-effective supports to seniors living in their homes and neighborhoods and look at new approaches to delivering these services

The hearing will take place in the Legislative Office Building, Hearing Room B, Albany, NY. Persons invited and wishing to participate in the hearing should complete and return the <u>public</u> <u>hearing reply form</u>. Oral testimony will be limited to ten minutes.

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Adult Day Health Care Program Survey Report Letter and Questionnaire

The Department of Health ("DOH") has issued a new Dear Administrator Letter (<u>DAL: NH 17-08 Adult Day Health Care Program Survey Report Letter and Questionnaire</u>) to nursing home administrators to distribute the <u>Program Survey Report (PSR) questionnaire</u> for the Adult Day Health Care Program.

The PSR questionnaire must be completed for each Adult Day Health Care Program operated by each facility. The questionnaire is used by DOH as a resource document to determine regulatory compliance for Adult Day Health Care Programs.

The PSR is to be completed by the Adult Day Health Care Program for the period from **October 1, 2016 through September 30, 2017**. The completed PSR questionnaire must be mailed to the NYSDOH Regional Office in which the program is located by **December 31, 2017**.

Nursing home administrators are required to certify the accuracy of the report. Thereafter, at the time of an onsite visit, the program will be given an opportunity to update the questionnaire.

Questions should be submitted to the appropriate Regional Office Program Director.

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DOH Provides ALPs with Guidance on Federal HCBS Rule

The Department of Health (DOH) has issued a new Dear Administrator Letter (<u>DAL</u>: 17-09 <u>Guidance for Assisted Living Programs to Comply with the Home and Community Based Settings</u> (<u>HCBS</u>) <u>Final Rule</u>) to Assisted Living Program ("ALP") Administrators reminding them of obligations to meet HCBS standards for services provided under a Medicaid federal HCBS waiver by **March 17**, **2022**. The DAL includes <u>preliminary guidance</u> developed by the Department to assist ALP administrators in developing compliant policies and procedures.

Information on the federal HCBS Rule, and the New York State HCBS Transition Plan submitted to the HHS in January 2017, is located here.

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eMedNY Update

Medicaid Managed Care Network Provider Enrollment PowerPoint Updated

The recent 11/20/2017 Medicaid Managed Care ("MMC") Network Provider Enrollment PowerPoint is now available on the eMedNY MMC Provider enrollment webpage, here.

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NY Medicaid EHR Incentive Program

2018 Webinar Schedule Announced

The NY Medicaid EHR Incentive Program and Public Health Reporting Objective webinar schedules have been announced through the end of March 2018 and can be found here.

Medicaid EHR Incentive Program webinars include information on EP Meaningful Use – Modified Stage 2 and Stage 3. Public Health Reporting Objective webinars include information on 2017 MU Public Health Reporting and MURPH Live Walk—Through Demonstrations.

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Health Home Update

MAPP HHTS Release 2.3 Updates

The MAPP HHTS Release 2.3 was implemented on November 30, 2017. The complete list of issues that were addressed in Release 2.3 can be found https://example.com/here. Issues that will be included in MAPP HHTS Release 2.4 are also noted in the Proposed Release Number column. The target implementation date of Release 2.4 is January 26, 2018.

Concerns or questions regarding this Release can be directed to the MAPP Customer Care Center at mapp-customercarecenter@cma.com.

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Regulatory Updates

Department of Health

<u>Physician and Pharmacies; Prescribing, Administering and Dispensing for the Treatment of Narcotic Addiction</u>

The Department of Health recently issued a notice of <u>adopted rulemaking</u> that allows nurse practitioners and physician assistants to treat patients dependent on opioids with buprenorphine in an office-based setting. The rulemaking also increases the total number such patients that an authorized practitioner may treat at any one time by tying the limit to those established by the Drug Addiction Treatment Act of 2000 (DATA 2000) and the Department of Health and Human

Services (HHS) Substance Abuse and Mental Health Services Administration (SAMHSA). Finally, the rulemaking allows practitioners to prescribe buprenorphine using an electronic prescription.

This rule, as adopted, contains not changes from the initial proposal published in the May 24, 2017 issue of the NYS Register.

Communication between Clinical Laboratory Physicians and Patients

The Department of Health recently issued a notice of <u>adopted rulemaking</u> that allows licensed physicians employed by a clinical laboratory to discuss the meaning and interpretation of test results with patients when: 1) requested by the referring health services purveyor; 2) requested by the patient; or 3) the referring health services purveyor, or other health services purveyor responsible for using the test results, cannot be reached and a critical value needs to be communicated to the patient..

This rule, as adopted, contains not changes from the initial proposal published in the <u>June 21</u>, <u>2017</u> issue of the *NYS Register*.

Department of Labor

The Department of Labor recently issued a notice of <u>proposed rulemaking</u> that would require employers that are covered by the Miscellaneous Minimum Wage Order to either give significant advance notice of changes in employee schedules or pay additional amounts ("call-in pay") to employees scheduled on short notice. The proposed rule would not apply to employees who are covered by a valid collective bargaining agreement that expressly provides for "call-in pay." The proposed rule also contains an income exception which limits the provisions regarding unscheduled shifts, cancelled shifts, on-call, and call for schedule practices.

The Department of Labor developed these regulations after conducting four hearings and receiving testimony. See the <u>details of the hearings</u>.

The Department of Labor is accepting comments on the proposed rulemaking until January 8, 2018. Comments may be submitted to the Department by mail or <u>electronically</u>.

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Legislative Spotlight

Bills that have passed both houses of the Legislature continue to be delivered to the Governor. 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.

The following bills were recently signed into law by the Governor:

• A.5677/S.4150 (Seawright/Griffo): This bill includes tomosynthesis (3D mammography) in the definition of "mammography screening" under the Insurance Law, mandating that tomosynthesis be a form of breast cancer screening that must be covered by insurers. The Bill provides that mandated breast cancer screening (baseline mammography between ages 35-39, annual mammograms at age 40 and over, and screening at any age for an individual who has either a prior history of breast cancer or a first-degree relative with a prior history of breast cancer) may be provided by breast tomosynthesis.

- <u>A.8251/S.6609 (Weprin/Lanza)</u>: This bill amends the social services law to require that state oversight agencies ensure that its facilities or service providers under the jurisdiction of the Justice Center have policies and procedures in place to identify and report possible crimes against a service recipient by a custodian. The bill also requires state oversight agencies to provide guidance to service provider or facility, if such program does not have policies and procedures already in place.
- <u>S.1869-A/A.7277-A (Hannon/Gottfried)</u>: This bill add attending nurse practitioners to the list of health care providers who are authorized to execute an order not to resuscitate ("DNR"), as well as orders pertaining to life sustaining treatments.
- <u>A.7203/S.4741 (Jones/Hannon)</u>: This bill creates a Rural Health Council within the DOH Office of Rural Health to advise the Commissioner of Health on rural health matters, to assist the Office or Rural Health, contribute to the biennial report on rural health, and act as an advocate on rural health matters.

The following bills were vetoed by the Governor:

- <u>S.3421/A.2906 (Parker/Ortiz)</u>: This bill would establish topical oxygen wound therapy for chronic wound management, as prescribed, as a statutory Medicaid benefit.
- <u>S.6511/A.8241 (Hannon/Morelle)</u>: This bill would authorize medical assistance payments to article 28 facilities providing clinical services to patients with a traumatic brain injury ("TBI").
- <u>S.1222/A.807 (Rivera/Perry)</u>: This bill would require Medicaid coverage of both blood testing and skin prick testing for allergies.
- A.6976/S.2847 (Barron/Parker): This bill would require the creation of an interagency council comprised various New York State Agencies to develop a state plan on aging to plan for the current and future needs of older adults. The plan would focus or several areas including, but not limited to, health services, community-based services, no wrong door, long term care, housing, transportation, elder abuse, workforce issues, and mental health and substance abuse services.

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Upcoming Calendar

Tuesday,	Emergency Medical Services for Children Advisory Committee
December 5, 2017	12:30 p.m. to 3:30 p.m.
	875 Central Avenue, Albany, NY
Wednesday December 6, 2017	Assembly Public Hearing on Non-Medical Programs that Support Seniors in the Community
201/	11:00 a.m.
	Legislative Office Building, Hearing Room B, Albany, NY
Wednesday, December 6, 2017	Public Health and Health Planning Council ("PHHPC") Joint Meeting of the Public Health Committee and the Ad Hoc Committee to Lead the Prevention Agenda 10:30 a.m. to 12:30 p.m.

	Joint Meeting of the Health Planning Committee and the Public Health Committee
	1:00 p.m.
	90 Church Street, 4th floor, CR 4A/B, New York, NY
Thursday, December 7,	Public Health and Health Planning Council Full Council Meeting
2017	9:30 a.m.
	90 Church Street, 4th floor, CR 4A/B, New York, NY
Thursday, December 7,	Early Intervention Coordinating Council
2017	10:15 a.m. to 3:00 p.m.
	Empire State Plaza Convention Center, Meeting Room 2, Albany, NY
Thursday, December 7,	Medicaid Managed Care Advisory Review Panel (MMCARP)
2017	11:00 a.m. to 1:00 p.m.
	Conference call originating from the offices of the NYS Department of Health in Albany. Contact the Bureau of Program Implementation and Enrollment at (518) 473-1134 for more information.
Monday December 11,	Assembly Public Hearing on Housing For Individuals With A Mental Illness Or Developmental Disability
2017,	10:00 a.m.
	Legislative Office Building, Hearing Room C, Albany, NY
Tuesday, December 12, 2017	Assembly Public Hearing on Adequacy of Funding for Prevention, Treatment, and Recovery Services
201/	1:00 p.m.
	Assembly Hearing Room, 19th Floor, 250 Broadway, New York, NY
Tuesday, December 12, 2017	Regulatory Modernization Initiative – Long Term Care Need Methodologies and Innovative Models Workgroup
_01/	11:00 a.m 1:30 p.m.
	Empire State Plaza, Meeting Room 6, Albany, NY

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