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## DSRIP Update

### DSRIP DY3 Q3 Reports

The Independent Assessor (“IA”) has completed its reviews of the DSRIP Year 3, Quarter 3 reports, PPS activity from October 1, 2017 to December 31, 2017. The DY3 Q3 reports for each PPS can be accessed through the PPS section of the DSRIP website, [here](#).

Beginning with this quarterly report, the first and third quarterly reports for the remaining DSRIP years will focus on PPS updates on funds flow and partner engagement. Full PPS progress updates will be included in the second and fourth quarterly reports of each remaining DSRIP year.

The fourth quarterly reports for DSRIP Year 3 were due from the PPS on April 30, 2018 and the IA will complete final adjudication by June 30, 2018.

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## March 2018 Medicaid Update

DOH has released the March 2018 edition of its monthly [Medicaid Update](#) publication.

Some of the highlights include:

- [New York State Medicaid Will Begin Covering Voretigene Neparvovec-rzyl \(Luxturna™\):](#) New York State (NYS) Medicaid fee-for-service (FFS) and Medicaid Managed Care (MMC) will begin covering voretigene neparvovec-rzyl (brand name Luxturna™) for members who have confirmed biallelic RPE65 mutational-associated retinal dystrophy.

This coverage policy is effective April 1, 2018 for FFS and June 1, 2018 for MMC. For more information on the Medicaid Coverage policy and MMC/FFS billing process, click [here](#).

- Medicaid Managed Care Enrollees Service Authorization and Appeals Procedure Changes: The State will implement several changes related to Medicaid managed care service authorization, appeals, fair hearings and grievances (complaints) as required by the CMS Medicaid and CHIP Programs Final Rule published May 6, 2016. These changes apply to mainstream Medicaid managed care, HARPs, HIV Special Needs Plans, MLTC Partial Capitation, Medicaid Advantage, and Medicaid Advantage Plus. Managed care plans must continue to comply with the service authorization, appeals and grievance requirements in State statutes. The Department has issued guidance to the health plans for compliance with these changes (including the use of new model enrollee notices) [here](#) and [here](#). Enrollees will receive notice of these changes on or before **April 1, 2018**. Health plans will begin handling service authorization requests, appeals and grievances (complaints) under these new rules on **May 1, 2018**, and thereafter. Starting **May 1, 2018**, plans will be required to complete review of service authorization requests under different time frames, issue revised enrollee notices, and, for adverse determinations made on May 1, 2018 and thereafter, follow revised appeal processes. For more information on the procedure changes, click [here](#).
- Medicaid Breast Cancer Surgery Centers: The Department of Health requires that Medicaid recipients receive mastectomy and lumpectomy procedures associated with a breast cancer diagnosis at high-volume facilities defined as averaging 30 or more all-payer surgeries annually over a three-year period. Low-volume facilities will not be reimbursed for breast cancer surgeries provided to Medicaid recipients. This policy is part of an ongoing effort to reform NYS Medicaid and to ensure the purchase of cost-effective, high-quality health care and better outcomes for its recipients. The Department has completed its tenth annual review of all-payer breast cancer surgical volumes for 2014 through 2016 using the Statewide Planning and Research Cooperative System (SPARCS) database. Seventy-six (76) low-volume hospitals and ambulatory surgery centers throughout NYS were identified. For more information, click [here](#).
- Coverage of Preferred Diabetic Test Strips and Lancets: Effective **April 19, 2018**, the NYS FFS Medicaid pharmacy program will implement additional clinical editing on diabetic test strips. This editing will compare the number of test strips to the number of lancets on hand over time. Test strip claims will deny and require prescriber involvement if the number of test strips to lancets exceeds a reasonable ratio. For more information, click [here](#).
- Review of the CDC Guideline for Prescribing Opioids in Patients with Chronic Pain: The CDC Guideline for Prescribing Opioids in Patients with Chronic Pain – United States, 2016, is intended to provide recommendations to primary care providers on safe opioid prescribing practices. The CDC, as well as various pain management guidelines, all agree that non-pharmacologic and non-opioid pharmacologic treatments should be considered before initiating opioid therapy for pain management. Patients should also be assessed for risks versus benefits of opioid treatment before initiating opioids. During treatment, pain and functionality should be assessed in comparison to baseline. For more information on the CDC guidelines, click [here](#).
- Reminder: Pharmacy Providers: Auto Refill Policy: Automatic refill programs offered by pharmacies are not an option for Medicaid members. Automatic refilling of prescriptions/orders for prescription drugs, over-the-counter products, medical surgical supplies, and enteral products are not allowed under NYS Medicaid. This policy does not preclude other adherence programs. The following Refill Requests are allowed:
  - Requests for a refill by a Medicaid member or designated caregiver who initiates the request for a refill to the pharmacy.
  - Provider directly initiates refill by contacting a Medicaid member to determine if a refill is necessary, by phone, or electronic means (e.g., text message). Documentation of the need for each refill shall be maintained in the patient

record. The documentation must include the date and time of member contact, the Medicaid member's or designated caregiver's name with response, and the name of the pharmacy staff member who contacted the member or caregiver (if by phone), or electronic method. The documentation must be available for audit purposes. Compliance with HIPAA privacy guidelines is mandatory.

- [New Dental Director and Dental Policy Mailbox](#): Michele Griguts, DDS is the new Dental Director in the Bureau of Medical, Dental, and Pharmacy Policy within the Department of Health's Office of Health Insurance Programs. The Bureau's dental team will focus on policies that strengthen the oral health of Medicaid members, especially children, and ensure access to dental services. Questions about Medicaid dental policy and associated questions regarding clinic billing can be directed to the new dental policy mailbox at [dentalpolicy@health.ny.gov](mailto:dentalpolicy@health.ny.gov).
- [Provider Training Schedule and Registration](#): eMedNY offers various types of educational opportunities to providers and their staff. Training sessions are available at no cost to providers and include information for claim submission, Medicaid Eligibility Verification, and the eMedNY website. Fast and easy registration, locations and dates are available on eMedNY website, [here](#). The website is updated quarterly with new sessions. eMedNY Regional Representatives look forward to having you join them at upcoming training sessions. For more information, click [here](#).
- [eMedNY Edit/Error Knowledge Base](#): The Edit/Error Knowledge Base (EEKB) is a tool for providers to use in their efforts to analyze the pended and denied claim responses returned on paper or PDF remittance statement, or on the NYSDOH 835 X12 Remittance Advice Transaction, or NYSDOH 277 X12 Claim Status Response. The Edit / Error Knowledge Base returns detailed explanations about specific edits including potential causes and possible solutions to resolve the problem. The EEKB may be searched three ways. Search using one of the following: (1) the 5-digit Edit Number found on paper and PDF remit; (2) Claim Adjustment Reason Code/Remark Code found in 835 Remit or Healthcare Claim Status Code/Entity Identifier Code found in the 277 claim status response; or (3) Text contained in the main title/header of the EEKB. For more information, click [here](#).

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## **NYS Medicaid DURB Board Meeting**

On Thursday, the Drug Utilization Review (“DURB”) Board met in Albany. The DURB recommended several changes to the Medicaid Preferred Drug List (PDL) and reviewed the cost-effectiveness of the cystic fibrosis (CF) drug, Orkambi (manufacturer, Vertex). Pursuant to legislation that enacted the Medicaid Drug Cap in 2017-18, the DURB is statutorily required to review drugs referred to it by DOH for the purpose of recommending a target rebate amount.

The meeting ended with the DURB recommending a supplemental rebate target that would make the wholesale acquisition cost (WAC) price per unit of Orkambi \$56.94, net of all rebates, compared to the current WAC unit price of \$186.78. While this would be equivalent to a 70% discount off the list price, Greg Allen of the Department of Health reminded the DURB that “no one actually pays the WAC cost”.

In terms of annual costs, the rebate target would require the final price of the drug to come down to \$83,193, compared to the list price of \$272,686. With State Medicaid programs already entitled to a 23.1% OBRA from pharmacy manufacturers under Federal law, this suggests the actual target rebate is closer to 47.9%, the difference between the 23.1% already received and the 70% target. Of course, if the State is already receiving a supplemental rebate from the manufacturer, then the target rebate would be less than 47.9%.

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## Expanding Access to ALP Services

The Department of Health recently issued a Dear Administrator Letter ([DAL#: 18-10: Expanding Access to ALP Services](#)) to inform adult home applicants/operators of a new solicitation for existing assisted living program (“ALP”) providers to apply for up to nine (9) additional ALP beds. The solicitation was authorized as part of the 2018-19 executive budget. The authorization allows existing ALP providers to apply for the additional ALP beds pursuant to certain criteria. Eligible applicants include those existing ALP providers who:

- Do not require major renovation or construction;
- Dedicate such new beds to serve only residents receiving Medicaid;
- Are in good standing with the Department; and
- Are in compliance with all appropriate state and local requirements as determined by the Department.

Any required renovations must be completed prior to the Department's approval, and no applicant will be permitted to increase its certified maximum operating capacity. Eligible applicants interested in increasing their ALP capacity must complete the following schedules of the Adult Care Facility Common Application:

- Schedule 1 – General Information, Parts A, B, C, and E;
- Schedule 4A – Financial Information Required for All Applicants;
- Schedule 4D – ALP Projected 12-month Operating Budget;
- Schedule 5A – General Architectural Requirements;
- Schedule 6 – Program Information (Regional Office);
- Schedule 7E - Decertification of Bed Capacity (if applicable); and
- Schedule 7F – ALP Capacity Increase.

The required schedules, instructions, and other relevant application information are available online, [here](#). Completed applications must be submitted no later than close of business **June 30, 2018**.

All completed applications received from eligible applicants will be processed by the Department within 90 days of receipt.

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## January 2018 Medicaid Global Cap Reports

The January 2018 Global Cap Report was recently posted on the on the Medicaid Redesign Team (MRT) [website](#). 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 January resulted in total expenditures of \$17.573 billion, which was \$36 million *above* the \$17.537 billion target.

Medicaid spending in major Managed Care categories was \$55 million *over* projections. Mainstream Medicaid Managed Care was \$8 million *over* projections through January. Long Term Managed Care spending was \$47 million *over* projections. Medicaid spending in major fee-for-service categories was \$69 million (.9%) *over* projections.

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## Initiative to Target Maternal Mortality and Reduce Racial Disparities in Outcomes

On April 23, 2018, Governor Cuomo [announced](#) a new initiative to target maternal mortality and reduce racial disparities in health outcomes. The initiative includes efforts to review and better address maternal death and morbidity with a focus on racial disparities, expanding community outreach, and taking new actions to increase access to prenatal and perinatal care, including establishing a pilot expansion of Medicaid coverage for doulas.

The initiative is comprised of the following actions:

- **Create the Taskforce on Maternal Mortality and Disparate Racial Outcomes:** The task force will provide expert policy advice on improving maternal outcomes, addressing racial and economic disparities and reducing the frequency of maternal mortality and morbidity in New York State. The taskforce will be comprised of OB-GYNs, hospital representatives, Secretary to the Governor and Chair of the New York State Council on Women and Girls Melissa DeRosa, Lieutenant Governor Kathy Hochul, New York City Public Advocate Letitia James and appointees from Senate Democratic Leader Andrea Stewart-Cousins, Assembly Speaker Carl Heastie, Senate Majority Leader John Flanagan and Assembly Minority Leader Brian Kolb, as well as other stakeholders and members of the community
- **Establish the Maternal Mortality Review Board:** The Governor will direct DOH to establish the Maternal Mortality Review Board, composed of health professionals who serve and/or are representative of the diversity of women and mothers across the state, to work in collaboration with the American College of Obstetricians and Gynecologists (ACOG) and the City of New York to review each maternal death in New York State. The Board will also be tasked with making policy recommendations to DOH to improve maternal outcomes by reducing maternal mortalities and morbidities, and recommendations would specifically contemplate racial and economic disparities.
- **Launch the Best Practice Summit with Hospitals and OB-GYNs:** The Governor will launch a summit with the Greater New York Hospital Association, Healthcare Association of New York State, ACOG, and other stakeholders to discuss the issue of maternal mortality and morbidity, including racial disparities. The Summit will address statistics, best practices, community awareness, medical school curricula, graduate medical education, and practicing physician training, with the goal of implementing immediate measures and identifying future action items to improve maternal care and management.
- **Pilot the Expansion of Medicaid Coverage for Doulas:** DOH will pilot the expansion of Medicaid coverage for doulas. Doulas are non-medical birth coaches who assist a woman before, during, or after childbirth if needed. Certified doulas have been shown to increase positive health outcomes, including reducing birth complications for the mother and the baby.
- **Support Centering Pregnancy Demonstrations:** New York will increase support for a program similar to doulas included in the Governor's State of the State First 1,000 Days of Life initiative, known as centering pregnancy. The program is designed to enhance pregnancy outcomes through a combination of prenatal education and social support and has been associated with reduced incidence of preterm birth and low birth weight, lower incidence of gestational diabetes and postnatal depression, higher breastfeeding rates and better inter-pregnancy spacing. Centering pregnancy has also been shown to narrow the disparity in preterm birth rates between black women and white women.

- **Require Continuing Medical Education and Curriculum Development:** The Governor will call on the State Board for Medicine to require appropriate practitioners to participate in continuing medical education on maternal mortalities/morbidities and disparate racial outcomes. Additionally, DOH will work with medical schools, including SUNY's four medical schools, to build materials on maternal mortality/morbidity and disparate racial outcomes into their medical school curriculum, graduate medical education and training for practicing physicians.
- **Expand the New York State Perinatal Quality Collaborative:** The State will expand its collaboration with hospitals across New York State to review best practices to address hemorrhaging and implement new clinical guidelines to reduce maternal mortality.
- **Launch Commissioner Listening Sessions:** Commissioner Zucker will partner with community activists to visit high-risk areas across the state to listen to local stakeholders, including pregnant women. The listening sessions will explore the barriers that women face that make it difficult to obtain routine prenatal care as well as discuss strategies to better increase awareness of the signs and symptoms of pre-eclampsia and other causes of maternal mortality and morbidity.

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## Health Home Update

### Health Home Billing Transition

The Department of Health recently issued a [notice](#) to Medicaid Managed Care, HARP and HIV/SNP Plans and Health Homes announcing a delay in Health Home service billing. All Health Home services with service dates on or after **July 1, 2018** will be billed through the Medicaid Managed Care Plan (“MMCP”). The notice stated that the delay is intended to accommodate MMCPs request for additional time to prepare for the transition. The Department indicated that it expects MMCPs to fully comply with the completion of all claims testing and resolution of coding issues by **June 15, 2018**.

The Department has received Federal and State approval to implement the revised streamline rates and this new rate structure will be implemented for dates of service May 1, 2018 and after. Health Homes will continue to direct bill all Health Home services through eMedNY for dates of service up to and including June 30, 2018.

### EI/HH May Training

The Department of Health will be hosting forums across the State with sponsorship by lead Health Homes to ensure involved stakeholders have the needed information regarding early intervention/health home care management, and the opportunity to ask questions and network among attendees.

Note that this is the same training that was offered previously.

For more information and registration, click [here](#).

### Background Checks and Mandatory Reporting Implementation Webinar

The Department of Health will be hosting a webinar on the implementation of Background Checks and Mandatory Reporting regulations in the OPWDD Care Coordination Organization/Health Home (“CCO/HH”), the Health Home Serving Children (“HHSC”) and the Children’s Home and Community Based Services (“HCBS”) programs.

This webinar will be held on **Thursday, May 17, 2018 from 1:00 to 2:30 p.m.** The slides will be posted along with a FAQ after the final presentation.

To register for the webinar, click [here](#).

### **CANS-NY Trainings on Health Home Serving Children's Program**

The Department of Health and Chapin Hall have announced a number of planned in-person CANS-NY training across the State for the Health Home Serving Children's program. The list of training dates and locations can be viewed [here](#). To register for the trainings, click [here](#).

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## **Regulatory Update**

### **Department of Labor**

#### **Hours Worked, 24-Hour Shifts**

The Department of Labor ("DOL") recently issued a notice of [proposed rulemaking](#), and an extension of nearly identical [emergency rulemaking](#) that would align NYS regulatory requirements with DOL's interpretation and enforcement of New York's minimum wage law as applicable to 24-hour "live in" home care attendants. The regulation clarifies that the DOL residential exception, which provides that residential employees need only be paid for 13 hours of every 24-hour shift ("13 hour rule"), applies to non-residential home care aides who maintain their own residence and therefore might not actually "live in" the home of his or her employer.

This proposed regulation has been issued in response to recent Appellate Division rejections of DOL's longstanding interpretation applying the residential exception to the home care industry. While the proposed regulation would relieve home care employers from the obligation to pay aides for the entirety of a 24-hour shift going forward, it does not address home care aides who may be entitled to back-pay from hours work prior to issuance of the emergency rule.

The Department of Labor will be hosting a public hearing on the proposed regulations on **July 11, 2018 at 11:00 a.m. at the Department of Labor, 55 Hanson Place, Brooklyn, NY.** Comments on the proposed rule may be submitted to the Department by mail or [electronically](#), until **July 16, 2018.**

The continued emergency rule is scheduled to expire on **June 3, 2018.**

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## **Legislative Spotlight**

The Legislature will be in session on Monday, April 30 through Wednesday, May 2, 2018. The Senate Social Services Committee will meet on Monday, April 30, 2018. The Senate Committees on Health, Higher Education, and Corporations, Authorities and Commissions will meet on Tuesday, May 1, 2018. The Assembly Health Committee will meet on Tuesday, May 1, 2018.

Bills of potential interest include:

- [S.7908-A/A.10423 \(Funke/Schimminger\)](#): This bill would delay implementation of the November 22, 2017 NYS Department of Labor employee call-in pay requirements until

at least 90 days after completion of a study on the potential impact conducted by Empire State Development Corporation. This bill is on the Senate Corporations Committee agenda.

- [S.7713-A/A.10345 \(Hannon/Gottfried\)](#): This bill would add nurse practitioners to the list of health care providers who are identified as being involved in making determinations of capacity for purposes of executing or implementing a health care proxy. This bill is on the Senate Health Committee agenda.
- [S.7871/A.7108 \(Hannon/Gottfried\)](#): This bill would require health insurers to complete utilization review of a request for nursing home care after an inpatient hospital admission within 24 hours of the request. This bill is on the Senate Health Committee agenda.
- [S.8093/A.10221 \(Hannon/Gottfried\)](#): This bill would extend several health related laws set to expire in 2018, including the nursing home Disaster Preparedness and/or Energy Efficiency Demonstration program; the Limited LHCSA program; authorization for the Office of Temporary Disabilities Assistance (“OTDA”) to conduct FIDA fair hearings; and certain provisions of professional misconduct proceedings. This bill is on the Senate Health Committee agenda.
- [S.2246/A.7303 \(Hannon/Gottfried\)](#): This bill would clarify that four physician assistants (PAs) may be supervised by a particular physician at any one time in his or her private practice and that six PAs may be supervised at any time by a physician in a correctional facility. This bill is on the Senate Higher Education Committee agenda.
- [S.2489-A/A.7219-A \(Hannon/Abinanti\)](#): This bill would authorize pharmacists to substitute any generic epinephrine auto-injector when a brand epinephrine auto-injector has been prescribed. This bill is on the Senate Higher Education Committee agenda.
- [S.7743/A.9963 \(Serino/Brindisi\)](#): This bill would increase the rate of Social Security Income (“SSI”) payments for eligible individuals receiving enhanced residential care in \$4.00 per day increments, the first of which takes place April 1, 2018, followed by increases on April 1 of 2019, 2020, 2021 and 2022, for a total increase of \$20.00 per day. This bill is on the Senate Social Services Committee agenda.
- [A.1509 \(Cahill\)](#): This bill would require the child health plus program to include ostomy equipment and supplies as a covered health care service. This bill is on the Assembly Health Committee agenda.
- [A.8054-A \(Gottfried\)](#): This bill would extend the age of eligibility for child health insurance plan (“CHIP”) to adults through 29 years of age who are ineligible for other health insurance coverage due to their immigration status. This bill is on the Assembly Health Committee agenda.
- [A.8068 \(Weprin\)](#): This bill would authorize special Medicaid rate for nursing homes that accept elderly released from state correctional facilities. This bill is on the Assembly Health Committee agenda.
- [A.4304 \(Lawrence\)](#): This bill would require non-direct care staff of nursing homes and assisted living to undergo criminal history background checks. This bill is on the Assembly Health Committee agenda.
- [A.4508/S.5702 \(Goodell/Helming\)](#): This bill would require that Medicaid covered benefits align with commercial Article 43 insurance coverage requirements. This bill is on the Assembly Health Committee agenda.
- [A.4562 \(DiPietro\)](#): This bill would require pharmaceutical drug manufacturers and wholesalers to annually report to the Department of Health all gifts provided to healthcare practitioners that prescribe drugs. This bill is on the Assembly Health Committee agenda.
- [A.5474/S.5124 \(Kolb/Helming\)](#): This bill would require health care facilities to report, within 20 days, all allegations of a sexual offense by a health care practitioner involving a patient. This bill is on the Assembly Health Committee agenda.
- [A.5802 \(Errigo\)](#): This bill would remove the local share of Medicaid through a State takeover across five years. This bill is on the Assembly Health Committee agenda.



- [A.7668 \(Fitzpatrick\)](#): This bill would require prior approval by a municipality with respect to site selection for an Adult Care Facility. This bill is on the Assembly Health Committee agenda.

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## Upcoming Calendar

<b>Wednesday, May 2, 2018</b>	Not-for-Profit Contracting Advisory Committee  1 p.m. to 3 p.m.  State Capitol Building, Blue Room, Albany, NY
<b>Thursday, May 3, 2018</b>	Assembly Hearing on Medical Aid in Dying ( <a href="#">A.2383-A (Paulin)</a> )  11:00 a.m.  Assembly Hearing Room, 250 Broadway, 19 <sup>th</sup> floor, New York, NY
<b>Wednesday, May 16, 2018</b>	Public Health and Health Planning Council Joint Meeting of the Public Health Committee and the Ad Hoc Committee to Lead the Prevention Agenda  10:00 a.m. to 2:30 p.m.  New York State Department of Health, 90 Church Street, 4th Floor, Conference Rooms 4A and 4B, New York, NY
<b>Wednesday, May 16, 2018</b>	NYS All Payer Database Stakeholder Forum Meeting  11:00 a.m. to 3:15 p.m.  Empire State Plaza, Concourse Meeting Room 6, Albany, NY

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