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May 21, 2018 Volume 7, Issue 14

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NYSOH Update

2018 Open Enrollment Report Released

The NY State of Health ("NYSOH") has released the 2018 Open Enrollment Report detailing enrollment data on the 3.6 million individuals who enrolled in health plans through the end of the 2018 open enrollment period.

As of January 31, 2018, 4,332,393 people had enrolled in coverage through NY State of Health's Individual Marketplace. This includes 253,102 people who enrolled in QHPs with and without financial assistance, 738,851 in the Essential Plan (EP), 2,965,863 people enrolled in Medicaid, and 374,577 enrolled in Child Health Plus (CHP).

Additional demographic information includes:

- **New and Returning Enrollees**: Across QHP, EP, and CHP, 7% of enrollees are new to the Marketplace. Twenty-four percent (24%) of QHP enrollees are new to the Marketplace and 76% are returning enrollees.
- **Region**: 52% of Marketplace enrollees live in New York City; 11.5% of enrollees live in Long Island; 18% live in the Capitol/Mid-Hudson/North Country region; 5.5% live in the Western region; and 13% live in the Central region.
- **Health Plan**: Market share among the 12 health plans offering QHP coverage - FidelisCare (41%), Healthfirst (13%), Oscar (8%), EmblemHealth (8%), MVP (6%), MetroPlus (6%), Excellus (5%), Empire Blue Cross Blue Shield Downstate (5%),

UnitedHealthcare (3%), CDPHP (2%), Independent Health (1%), BlueCross BlueShield of WNY (1%), Blueshield of Northeastern NY (<1%), Univera (<1%), and Empire Blue Cross Upstate (<1%)

- **EP Enrollees by Income**: Twenty nine percent (29%) of enrollees in EPs have income at or below 100 percent of the Federal Poverty Level (FPL). 12% of enrollees have incomes between 100-138 percent FPL, 13% of enrollees have incomes between 138-150 percent FPL. The remaining 46% of enrollees have incomes between 150-200 percent FPL.
- **QHP Enrollees by Income**: Nearly half (44%) of enrollees in subsidized QHPs have income below 250 percent of the Federal Poverty Level (FPL). More than one fourth (27%) of subsidized QHP enrollees have incomes between 250-300 percent FPL. The remaining 29% of QHP enrollees have incomes between 300 and 400 percent FPL.
- **Financial Assistance for QHP Enrollees**: 59% of QHP enrollees received financial assistance, including 26% that were eligible for both tax credits and cost sharing reductions and 33% that were eligible for tax credits only. The remaining 41% enrolled in a QHP at full cost.
- **Age**: 64% of Marketplace enrollees are at or under age 34; 13% are between the ages of 35 and 44; 12% are between ages 45 and 54; and 11% are between ages 55 and 64. Among Essential Plan enrollees, 14% are between ages 18 and 25, 24% are between ages 26 and 34, 23% are between ages 35 and 44, 21% are between ages 45 and 54, and 17% are between ages 55 and 64.
- **Small Business Marketplace ("SBM")**: As of January 31, 2018, 2,162 small businesses had offered coverage through the SBM, and 9,477 employees and dependents had enrolled through the SBM. On average, small business marketplace employers contributed 71% towards the cost of the employee's coverage.

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Governor Launches New Multi-Agency Effort to Combat Maternal Depression

Last week, Governor Cuomo, as part of his 2018 Women's Agenda, announced a new multi-agency effort to combat maternal depression. Last week's actions include the following agency directives.

- **Department of Financial Services:** DFS will require all New York commercial health insurance policies to cover maternal depression screenings, including screening for the mother under the child's policy. The proposed regulations related to this directive can be found in the **Regulatory Update** below.
- **Department of Health and Office of Mental Health:** DOH and OMH will launch a strategic awareness campaign to provide critical information about symptoms and treatment options for maternal depression. As part of the campaign, Commissioners of OMH and DOH will issue a joint letter to health care providers reminding them of the seriousness of the issue as well as encouraging expansion of treatment options. Several more programs will also launch this summer.
- **Office of Mental Health:** OMH will open a State-operated intensive outpatient clinic focused on maternal depression by the end of the month.

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New York State Commissioner of Health Declares Influenza No Longer Prevalent In New York State

On Thursday, May 17, 2018, New York State Commissioner of Health Dr. Howard A. Zucker declared influenza no longer prevalent in New York State. As a result, facilities subject to Part 2 of Title 10 NYCRR are no longer required to implement their policies and procedures ensuring that all non-vaccinated personnel wear a surgical or procedure mask ("masks") while in areas where patients or residents are likely to be present and engage in activities in which they could expose patients to the flu if infected. The requirement for non-vaccinated personnel to wear "masks" is only in effect during periods where the Commissioner declares that influenza is prevalent in New York State.

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April 2018 Medicaid Update

DOH has released the April 2018 edition of its monthly Medicaid Update publication.

Some of the highlights include:

- 2018-2019 Enacted Budget Initiative: Medicaid Transportation Ambulance Rate Increase: The Enacted 2018-2019 State Budget will increase Medicaid Ambulance fees totaling $12.56 million in 2018- 2019 for a Medicaid fee increase for both emergency and non-emergency ambulance transports at the Advanced Life Support and Basic Life Support level of service. The statewide fee increases reflect the value of the first two years of a four-year phase-in. The updated fees effective for dates of service on or after April 1, 2018 are posted here.
- 2018-2019 Enacted Budget Initiative: Center of Operational Excellence: The Office of Health Insurance Programs is instituting a Center of Operational Excellence, which will focus on improving cost avoidance measures and enhance fraud, waste, and abuse deterrence. The first initiative of the Center of Operational Excellence is to expand the cost avoidance functions currently in place. A key component will focus on strengthening claims editing by adding staff to monitor system edits to ensure optimal performance and compliance with national claims editing standards. This initiative requires enhancements to the existing claims processing system. The second component of this initiative will enhance the review processes for delays in claims filing. For more information, click here.
- 2018-2019 Enacted Budget Initiative: Health Home Program: The Enacted Budget contains several initiatives for the Health Home Program. These performance initiatives will provide incentives for Health Homes and Managed Care Plans to link eligible high-risk Members to a Health Home and create a Health Home Quality Performance Incentive Pool. The Health Home performance initiatives that are effective as of **April 1, 2018** include: the Health Home Quality Performance Management Program, Additional Health Home quality performance requirements, the Health Home Healthy Rewards program, and new Incentives to Enroll High-Risk Plan Members in Health Homes. In addition, effective **October 1, 2018**, the Department will be restructuring outreach resources and making other outreach reform efforts. For more information on these programs, click here.
- 2018-2019 Enacted Budget Initiative: Managed Long-Term Care Plan Closure Oversight: Effective **April 1, 2018**, the Department of Health will require the submission of a report approximately one year after the effective date of the transaction of any merger, acquisition, or similar arrangements approved by the Department involving the involuntary transition of enrollees from one managed long term care (MLTC) plan to another MLTC plan. The report will be filed by the receiving plan(s). This is in addition to MLTC Policy 17.02 (MLTC Plan Transition Process – MLTC Market Alternation) that offers 120 days continuity of care to MLTC enrollees who are required to involuntarily transition from one MLTC plan to another as the result of plan closure, service area reduction or withdrawal, or merger, acquisition or similar transaction. For more information on this reporting requirement, click here.

- 2018-2019 Enacted Budget Initiative: Patient Centered Medical Home Statewide Incentive Payment Program: Revised Incentive Payments and Updated Billing Guidance: Effective **May 1, 2018**, NYS Medicaid is changing the reimbursement amounts for providers working at practices that are recognized as a Patient Centered Medical Home (PCMH) by the National Committee for Quality Assurance (NCQA). The revised policy applies to both Medicaid Managed Care (MMC) and Medicaid Fee-For-Service (FFS). This policy replaces the policy outlined in the January 2018 issue of the Medicaid Update. The Enacted State Budget established a $200 million spending cap for the PCMH incentive program for State Fiscal Year (SFY) 2018-2019 and SFY 2019-2020. The changes outlined in this policy reflect the standards and PCMH incentive payment amounts that were agreed upon as part of the enacted budget. For more specifics regarding MMC per member per moth amounts and FFS "add-on" amounts, click here.
- New York State Medicaid Coverage of Professional Glucose Monitoring for Type 1 Diabetics: New York State Medicaid FFS and MMC Plans will begin covering short-term (three to seven days) professional monitoring of glucose levels in interstitial fluid for Type 1 diabetics whose condition is uncontrolled. This coverage is effective **April 1, 2018** for FFS, and **July 1, 2018** for MMC. For more information, click here.
- New Date for Taxi (Category of Service 0603) and Livery (Category of Service 0605) Claims Requirement: The Department of Health has reached agreement with the Office of the Medicaid Inspector General and the Attorney General's Medicaid Fraud Control Unit to require that claims submitted by taxi/livery providers include both the driver license and vehicle license plate number. The Department agrees that reporting this information will aid in its intent to ensure quality services and program integrity. Effective **May 24, 2018**, claims that do not include the required fields will be denied for edit 00267, "VEHICLE LICENSE PLATE / DRIVER'S LICENSE NUMBER REQUIRED."
- Medicaid Pharmacy Prior Authorization Programs Update: On February 15, 2018, the New York State Medicaid Drug Utilization Review (DUR) Board recommended changes to the Medicaid pharmacy prior authorization (PA) programs. For a detailed list of the new fee-for-service pharmacy program parameters will be effective as of April 19, 2018, click here.
- Update on Pharmacists Administering Influenza Vaccines for Medicaid Enrollees Under the Age of 19: Effective **April 1, 2018**, NYS certified pharmacists may administer influenza vaccines to children between the ages of 2 years and 18 years. The influenza vaccine is provided free of charge by the Centers for Disease Control and Prevention (CDC) to the Vaccine for Children (VFC) Program and in turn to VFC-enrolled pharmacies for administration to Medicaid enrolled and uninsured children under the age of 19. NYS Medicaid should never be billed for the cost of influenza vaccines for Medicaid members under the age of 19, as these vaccines are available to pharmacies free of charge through the VFC Program. Pharmacies that bill Medicaid for vaccines available through VFC may be subject to recovery of payment. For more information, click here.
- New HCPCS Code to be Used When Billing for Axicabtagene Ciloleucel (brand name YESCARTA™): Effective **April 1, 2018**, hospital claims for Axicabtagene Ciloleucel (brand name YESCARTA™) should be billed using Healthcare Common Procedure Coding System (HCPCS) code Q2041. Hospitals submitting claims for YESCARTA™ for the period December 1, 2017 through March 31, 2018 should bill using HCPCS code J3590, unlisted biologic. When specific criteria are met, New York State Medicaid covers YESCARTA™ for members 18 years of age and older who have a diagnosis of B-cell lymphoma. Coverage criteria and billing guidelines are outlined in the January 2018 issue of the Medicaid Update.
- Tips to Prevent Rejection of Yearly Certification Forms: New York Medicaid policy requires that each provider annually recertify their Electronic Transmitter Identification Number (ETIN). If the certification is not renewed annually, claims and other transactions will be rejected after ETIN the decertification date. During each 12-month period, eMedNY distributes two renewal notices accompanied by a preprinted

Certification Statement with the provider and ETIN information listed on the form. The first notice is sent 45 days prior to the date the yearly decertification will take place, and a second notice is sent 30 days prior to the decertification date. For more information, click here.

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Department of Health Launches NYS Health Connector

The Department of Health has launched the NYS Health Connector, a website that provides selected statewide health data from the state All Payer Database ("APD"). Available data includes the volume of cardiac procedures, joint replacements, newborn deliveries, and emergency department visits in hospitals throughout the state. It also includes statewide suicide rates. The DOH press release indicates that the NYS Health Connector can be used to estimate costs for various medical procedures, however, this functionality does not appear to be available at this time. The Department also indicates that, in the future, the Connector will include estimates on whether the ED treatment could have been avoided with adequate access to alternative care settings and better patient care coordination.

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New York to Sue Opioid Manufacturer

Last Wednesday, New York's Acting Attorney General announced that the state plans to sue Purdue Pharma, a leading opioid manufacturer, for allegedly encouraging physicians to prescribe its painkillers, then profiting off the patients who were hooked on the drugs. The announcement comes after the New York Attorney General's office and a bipartisan coalition of attorneys general commenced a nationwide investigation into major opioid manufacturers and distributors last September.

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Children's Medicaid Health and Behavioral Health System Transformation Bulletin

The Department of Health has released the first edition of the **Children's Medicaid Health and Behavioral Health System Transformation Update**. The goal of this document is to provide highlighted, updates on the transition efforts to keep stakeholders informed on the transition and aware of opportunities for training and additional education to support the project's implementation. The May edition of the Update includes information on:

1. Major objectives of the transition
2. Transition plan and 1115submitted to CMS
3. Upcoming events and links to prior trainings
4. Children's Transition Timeline

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Regulatory Updates

Department of Financial Services

Maternal Depression Screening

The Department of Financial Services recently issued a proposed regulation relating to coverage of maternal depression screening. The proposed regulation would require that when an infant is covered under a separate health insurance policy from the mother, and the mother receives screening for maternal depression from a pediatrician, the service must be covered under the infant's policy.

This regulation has not yet been published in the *NYS Register*. Once published, the proposed regulation will take effect 60 days after publication.

Establishment and Operation of Market Stabilization Mechanisms for Certain Health Insurance Markets (RP)

The Department of Financial Services issued a notice of revised proposed rulemaking. The revised proposed rulemaking would create a supplemental risk adjustment mechanism for the small group market. The revised proposed regulation is intended to provide the Superintendent with a mechanism to ameliorate potential adverse impacts of the federal risk adjustment program on carriers participating in the individual and small group health insurance markets. The proposed regulation would permit the Superintendent to, in the event he/she determines that a market stabilization mechanism is necessary, implement a market stabilization pool for carriers participating in the small group health insurance market.

If the Superintendent determines that a market stabilization pool is necessary, he/she would determine the uniform percentage adjustment necessary to correct the adverse market impact. Carriers receiving federal risk adjustment payments would be required to remit an amount equal to a uniform percentage of that payment transfer for the market stabilization pool, while carriers paying into the program would receive an amount equal to uniform percentage of that payment transfer for the applicable market stabilization pool. For the 2017 plan year, the uniform percentage would not exceed 30% of the amount to be received from the federal risk adjustment program.

The revised proposal is substantially similar to the emergency regulations that have been in effect since June 21, 2017. However, the revised proposal includes two additional sections that would permit the application of the market stabilization mechanism on the small group health insurance market for the 2017 and 2018 plan years.

The Department will be accepting comments on the revised proposed rule until **June 20, 2018**. Comments may be submitted by mail or electronically. An assessment of public comments from the original proposed rulemaking, which was published in the May 3, 2017 edition of the *NYS Register*, can be found here.

Department of Health

Trauma Centers

The Department of Health recently issued a notice of adopted rulemaking that updates the regulatory framework for the operation of trauma centers at hospitals in New York State. The updated regulations define terms relating to trauma center, establish general provisions relating to trauma care, establish the process for obtaining trauma center designation, establish requirements for operating a trauma center, and set forth the conditions under which the Department may withdraw trauma center designation. The most notable changes from the trauma center regulations currently in place include the establishment of four levels of trauma centers, up from two, and adding a requirement that trauma centers meet standards published by the American College of Surgeons Committee on Trauma ("ACS-COT") in Resources for Optimal Care of the Injured Patient (2014).

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Legislative Spotlight

The Legislature will be in session on Tuesday, May 21 through Wednesday, May 23, 2018. The Assembly Ways and Means Committee will meet on Tuesday, May 22, 2018.

Bills of potential interest include:

- A.2661-A (Gottfried)**:** This bill would require pharmacy benefit managers (PBMs) to have a fiduciary relationship with health plans, pass through all monies to health plans other than fee or payment for services, account for all funds and provide access to all necessary information, disclose any relevant relationships, and not substitute or cause the substitution of prescription drugs. This bill is on the Assembly Ways and Means Committee agenda.
- A.4738/S.4840 (Gottfried/Rivera)**:** This bill would provide for establishment of the New York Health plan (i.e. "single payer"), a proposal to establish a universal health care plan in NYS. This bill is on the Assembly Ways and Means Committee agenda.
- A.10604 (McDonald)**:** This bill would codify the existing process for Medicaid beneficiaries to access complex rehabilitation technology ("CRT") and would require the Department of Health ("DOH") to update Medicaid billing codes for CRT with the new codes added for CRT to the Medicare billing system. For managed care, the bill would require that DOH establish minimum benchmark reimbursement rates to be paid by managed care plans for CRT. This bill is on the Assembly Ways and Means Committee Agenda.
- A.10668 (Lavine)**:** This Bill would establish a tax credit, beginning in 2019, 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. This bill is on the Assembly Ways and Means Committee Agenda.

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Grants/Funding Opportunities

Adult BH HCBS Quality/Infrastructure Program

The State has made $50 million in Adult Behavioral Health Home and Community Based Services ("BH HCBS") Infrastructure Funds available to address slower than anticipated access to BH HCBS for HARP members. The BH HCBS Infrastructure funds will be administered by MCOs in support of a range of provider activities or infrastructure investments. These funds will be used to increase access to and provision of BH HCBS for HARP enrollees. Funding was added to the MCO premium beginning October 2017 and continues through March 31, 2019. MCOs can award funding beginning April 1, 2018.

For more information, see the package of documents for the Adult BH HCBS Infrastructure Program, which includes:

1. Adult BH HCBS Quality/Infrastructure Program: Infrastructure

2. Adult BH HCBS Infrastructure Proposal Template

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Upcoming Calendar

Thursday, May 24, 2018	Pain Management Steering Committee 10:30 a.m. to 5:00 p.m. Empire State Plaza, Concourse Level, Meeting Room 1, Albany, NY
Thursday, June 7, 2018	Public Health and Health Planning Council 9:30 a.m. New York State Department of Health, 90Church Street, 4th Floor, Rooms 4A and 4B, New York, NY

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