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In this Issue

Quick Links
(External Sites)

NYS Department of Health

NYS DOH – Meetings, Hearings & Special Events

Medicaid Redesign Team

Senate Health Committee Website

Assembly Health Committee Updates

NYS Division of Budget

VBP Updates

Value Based Payment (VBP) Reform Workgroup Meeting

On Monday May 21, the full VBP Reform Workgroup met in Albany. The purpose of the meeting was to review: (1) current VBP progress; (2) MACRA/VBP Alignment; (3) Children's VBP proposals; (4) new approaches for MLTC Level II; (4)VBP Roadmap Updates; (5) results and next steps from the MCO Data Sharing Survey; (6) Statewide Accountability Milestone Updates; and, (7)Social Determinant of Health Updates (SDH). Workgroup members were asked to provide feedback on the following proposals by June 4:

- MACRA/ VBP Alignment
- MLTC Level II
- Children's CAG Proposal
- VBP Roadmap Updates
- MCO Data Sharing Survey

Highlights from the meeting are below.

VBP Progress to Date

Based on survey data collected from April 1, 2017 thru December 31, 2017, thirty-five percent (35%) of MMC, HARP, HIV SNP, and MLTC (including partial cap, FIDA, and MAP) provider payments, totaling $21.5 billion after excluding for high cost drugs, organ transplant costs, and other permissible exclusions, were captured in Level 1 or higher VBP arrangements. This puts the State well ahead of its 10% target for April 1, 2018. The overall percentage of VBP payments will increase when the total for the full fiscal year is calculated, as the survey did not capture MLTC Level 1 arrangements with CHHAs, SNFs, and LHCSAs that were required to take effect January 1, 2018.

Most managed care payments continue to be FFS (48%), followed by Level 2 (21.67%); VBP Level 0 (17.26%) (consisting primarily of quality-only upside arrangements (16.14%); followed by Level 1 (10.82%) and Level 3 (2.14%). The high number of Level 2 contracts is due to the near exclusive

use of Level 2 arrangements by two large NYC-based mainstream plans, which resulted in capturing 42% of all NYC region payments at Level 2. Despite achieving a 35% Statewide level, there was high regional variation and much lower levels reported upstate vs. downstate, with some regions reporting less than 10% VBP while others barely eclipsed this mark.

MACRA/VBP Alignment

The State intends to align Medicaid VBP Roadmap with Medicare Quality Payment Program (QPP) requirements for physicians. Proposals under review include efforts to align measures and streamline reporting requirements for physicians participating in the QPP MIPS track under MACRA, and several proposals related to the Advanced Payment Models (APM) track. APM proposals include aligning the NYS VBP Roadmap to match the APM's definition of "nominal amount of financial risk" for an "other payer APM" (i.e., NYS Medicaid VBP arrangement) to qualify as an APM for Medicare, as well as efforts to expand use of 2015 Certified Electronic Health Record Technology (CEHRT) for physicians, which is also a requirement for APM cross-certification. In order to cross-qualify a Medicaid arrangement as an "other payer APM", the State must submit the contract type (i.e., TCGP) to CMS for their review.

Children's VBP

The State is considering creating expenditure or revenue-based TCGP or IPC specific VBP arrangements for children in Medicaid. There are 1.4 million children (defined as less than age 21) who had at least three or more months of Medicaid eligibility based on 2016 data. Of these, 680,000 received only routine sick care, while 20% received some level of chronic care, including 156,000 with asthma (comprising 55% of all Medicaid members captured in the asthma IPC episode), 43,000 children with trauma and stress disorders (44.6% of the Medicaid episode total) and 50,000 with depression or anxiety (21.1% of the total). Applicable quality measures would be the same proposed by the Children's CAG.

Some of the State's proposals for review include a recommendation that plans "should" reinvest savings from reducing adult avoidable costs into additional support services for children, especially those at high risk for future health and behavioral health-related issues; that pediatric practices should consider joining an IPA or ACO for Medicaid members to create a collective contract that provides enough member volume to accept risk or a "virtual" IPA with other pediatric practices, organized within the MCO.

VBP Roadmap Updates

The State intends to update the Roadmap to reflect that providers who are not "adequately engaging in VBP arrangements" will see downward adjustments in their MMC FFS acute benchmark rates. Providers and other State agencies discussed that the State should ensure there is a way to verify whether a provider had a viable opportunity to participate in a VBP relationship that made sense for the organization before determining that the provider has not adequately engaged. The State said that much like the VBP Penalties, it is their hope they do not need to apply these downward adjustments.

Statewide Accountability Measures

Greg Allen discussed the four Statewide Accountability Measures under the 1115 DSRIP Waiver, which includes the Roadmap's requirements related to attaining specific percentages of Level 1 and 2 arrangements by specific milestones. Notably, if any of the four measures are not attained in any year, the State must return the entire allotment for that fiscal year back to CMS. Thus, even if the State achieves its VBP contract goals every year, it may still have to pay back Waiver funds if DSRIP measures are not met. The amount of funding on the line for each fiscal year is:

- $76.68 million in DY 3; 5% of all funds (ended April 1, 2018)
- $141.8 million in DY 4; 10% of all funds (ending April 1, 2019); and
- $185.04 million in DY 5; 15% of all funds (ending April 1, 2020)

MLTC Level II Stakeholder Meeting

On Thursday, Erin Kate Calicchia of the Division of Long Term Care hosted a webinar to update stakeholders on the State's revised strategy for MLTC partial cap VBP Level II arrangements. The new strategy will require providers to accept a minimum of 1% risk on the total amount of expenditures under their contract with the plan, based on performance on the Potentially Avoidable Hospitalization (PAH) measure and at least one other long term care measure from the MLTC Quality Incentive measures recommended by the MLTC CAG that will be determined by the plan and contractor. The minimum 1% upside or downside will be a flat percentage based solely on performance on the two quality metrics. Plans and providers are free to adopt a higher percentage as well. DOH is providing MLTCs with information on their LHCSA's PAH scores and told plans they must provide this information to providers upon request.

Back to Top.

DFS Issues Circular Letter Reminding Health Insurers to Provide Comprehensive Lactation Support Services

Last week, at the direction of Governor Cuomo, the NYS Department of Financial Services issued Insurance Circular Letter No. 5, which restates New York State requirements for health insurance coverage of comprehensive lactation support and counseling and breastfeeding equipment and supplies.

The circular letter reminds insurers that they are required to provide coverage for parent education, and assistance and training in breast and bottle-feeding while the mother is receiving in-patient care. In addition, all insurers, except for grandfathered health plans, must provide comprehensive lactation support services, including breastfeeding equipment and supplies, at no cost-sharing.

Back to Top.

Health Home Update

Updated Policy Documents

Based on feedback received from MCOs, the State has revised the below guidance documents:

- Policy for Improving Access to Adult Behavioral Health Home and Community Based Services (BH HCBS) for HARP and HARP-Eligible HIV Special Needs Plan Members Not Enrolled in Health Homes: Network section has been updated based on feedback received from Plans. Additional information has been added to clarify Plan of Care rates and to address general comments submitted from the Health Plan Association.
- New Plan of Care (POC) template for Adult Behavioral Health (BH) Home and Community Based Services (HCBS): This document was created by the Office of Mental Health, in partnership with OASAS and DOH, and has been designed to meet all State and Federal requirements for a person-centered service plan when completed. This template is not required to be used by Health Home Care Management Agencies or Recovery Coordination Agencies (RCA), however it will replace the previous State-issued Adult BH HCBS template offered to providers.

Back to Top.

Legislative Spotlight

The Legislature will be in session on Wednesday, May 30 and Thursday, May 31, 2018. The Senate Health, Mental Health and Developmental Disabilities, and Alcoholism and Drug Abuse Committees will meet on Thursday, May 31. The Senate Insurance and Higher Education Committees will meet on Wednesday, May 30. The Assembly Insurance and Aging Committees will meet on Wednesday, May 30. The Assembly Health and Higher Education Committees will meet on Thursday, May 31.

Bills of potential interest include:

- S.8600 (Amedore)**:** This bill would authorize OASAS to approve qualified opioid treatment applicants seeking to establish in a region that is in need of such services, regardless of whether the company is owned by natural people or another business entity. This bill is on the Senate Alcoholism and Drug Abuse Committee agenda.
- S.3943/A.2704 (Hannon/Lavine)**:** This bill would impose limitations on the ability of Medicaid Managed Care (MMC) plans to terminate or to elect not to renew provider contracts by requiring the same process as currently in place for contract terminations for non-renewals. It would also change the composition of the hearing that can be requested by the provider to include 3 health care professionals licensed in NY. It would remove the provision stating that either may exercise a contract right of non-renewal at the expiration of the contract, and such non-renewal does not constitute termination under this Section. This bill is on the Senate Health Committee agenda.
- S.2271 (Hannon)**:** This bill would require Article 28 providers to facilitate and assist patients in exercising their civil and religious liberties, including the right to independent personal decisions and knowledge of available choices. In addition, the bill would require that every patient's religious beliefs be respected with regard to withholding or withdrawing life sustaining treatments or discharge from a facility. This bill is on the Senate Health Committee agenda.
- S.5670/A.8538 (Akshar/Rosenthal)**:** This bill would requires practitioners to inform patients of the option to fill a prescription for an opioid in a lesser quantity than what was prescribed, and inform patients of the risk associated with an opioid-related addiction. This bill is on the Senate Health Committee agenda.
- S.6547/A.6089 (Hannon/Englebright)**:** This bill would establish a central location for maintaining and providing to health care providers voluntarily submitted health care proxies within the Department of Health. This bill is on the Senate Health Committee agenda.
- S.8473 (Hannon)**:** This bill would require that the minimum wage adjustment on Medicaid claims submitted by HCBS providers and fiscal intermediaries not be subject to managed care risk adjustments. It would also require that any such minimum wage adjustment funds be distributed by insurers (including, but not limited to MMC & MLTCs) in amendments to existing contracts with HCBS providers and FIs 90 days prior to the effective date of a wage increase. This bill is on the Senate Health Committee agenda.
- S.8474 (Hannon)**:** This bill would create and Office-Based Surgery ("OBS" workgroup to make recommendations on preserving patient access to the office-based surgery setting. The OBS workgroup would consider, among other factors, trends in reimbursement rates and the impact of reimbursement rates on consumers and insurance premiums. This bill is on the Senate Health Committee agenda.

- S.8669 (Hannon)**:** This bill would authorize the Department of Health to provide support for a number of activities, to promote community based sepsis prevention, screening, intervention and education in the state. This bill is on the Senate Health Committee agenda.
- S.7940-A/A.10486 (Seward/Cahill)**:** This bill would clarify that cybersecurity regulations adopted in 2017 by the Department of Financial Services ("DFS") do not apply to Continuing Care Retirement Communities ("CCRCs"), which are authorized to operate by the CCRC Council and the Department of Health, not by DFS. This bill is on the Senate Insurance Committee agenda.
- S.8499 (Seward)**:** This bill would extend from July 1, 2018 to July 1, 2023 the statutory clarification that the Medical Malpractice Insurance Pool ("MMIP") is not required to offer a second layer of excess medical malpractice insurance coverage. This bill is on the Senate Insurance Committee agenda.
- S.7173 (Serino)**:** This bill would require the Department of Health to conduct a study on the incidence of geriatric social isolation, mental health consequences, and their treatment and prevention. The study would provide recommendations on effective identification of social isolation, and the development of telehealth, telemedicine, and telepsychiatry programs to meet the needs of homebound and socially isolated geriatric patients. This bill is on the Senate Mental Health Committee agenda.
- S.8632 (Ortt)**:** This bill would amends the Geriatric Service Demonstration Program to add Mental Health-Home Care collaboration for the purpose of coordination, integration and improved access of health and mental health services for individuals with co-occurring mental health and physical health needs. This bill is on the Senate Mental Health Committee agenda.
- A.10814 (Gottfried)**:** This bill would require Medicaid to establish a delay reason code for claims that are not submitted within the State's timely filing requirements due to complications caused by a new or upgraded medical record system. This bill is on the Assembly Health Committee agenda.
- A.10758 (Morelle)**:** This bill would extends the Residential care off-site facility demonstration project for an additional three (3) years through 2021. This bill is on the Assembly Health Committee agenda.
- A.10221-A/A.8093-A (Gottfried/Hannon)**:** 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. his bill is on the Assembly Health Committee agenda.
- A.256 (Dinowitz)**:** This bill would extend the period during which an HMO enrollee may continue to receive services from a disaffiliated health care provider from 60 or 90 days to 1 year, or in the case of terminal illness, until the time of such insured's death. This bill is on the Assembly Health Committee agenda.
- A.9576-A (Gunther)**:** This bill would require manufacturers of a certain drugs to operate a drug take back program, or contract with either a third-party organization or the Department of Health to operate a drug take back program for them. This bill is on the Assembly Health Committee agenda.
- A.10607/S.7569 (Solages/Hamilton)**:** This bill would prohibit the Department of Health from cancelling the Medicaid benefits of a temporary protected status beneficiary. This bill is on the Assembly Health Committee agenda.
- A.10392-A/S.8342 (McDonald/Hannon)**:** This bill would authorize pharmacists to partially fill a prescription for controlled substances at the request of the prescriber or patient. This bill is on the Assembly Higher Education Committee agenda.
- A.7219-A/S.2489-A (Abinanti/Hannon)**:** This bill would authorize pharmacists to substitute any generic epinephrine auto-injector when a brand epinephrine auto-injector

has been prescribed, unless prescriber prohibits such substitution. This bill is on the Assembly Higher Education Committee agenda.

- A.8809/S.7649 (Giglio/Phillips)**:** This bill would require health care professionals, including nurses and staff of nursing homes and assisted living facilities to report suspected cases of senior abuse or maltreatment. It would also establish a registry within adult protective services to receive reports of alleged senior abuse. This bill is on the Assembly Aging Committee agenda.
- A.4737 (Walter)**:** This bill would cap the allowable increases for long term care insurance premiums. It would also prohibit long term care insurance exclusions for pre-existing conditions. This bill is on the Assembly Aging Committee agenda.
- A.1528 (Crouch)**:** This bill would require insurers to submit payments for ambulance services either directly to the provider, or if such payments are issued to the insured, then in the form of a two-party check specifying the name of the insured and the provider of ambulatory services; provided, however, if the insured furnishes a record of payment for such services to the insurer, the insurer may issue reimbursement solely to the insured. This bill is on the Assembly Insurance Committee Agenda.
- A.1550 (Crouch)**:** This bill would require health insurance coverage for certified registered nurse anesthetists providing anesthesia services. This bill is on the Assembly Insurance Committee Agenda.
- A.2230 (Crouch)**:** This bill would establish a mandated health insurance benefit and cost commission to study and report on proposed health insurance coverage mandates. This bill is on the Assembly Insurance Committee Agenda.
- A.2420 (Crouch)**:** This bill would require that HEALTHY NY insurance policies cover hospice services and palliative care. This bill is on the Assembly Insurance Committee Agenda.
- A.2421 (Crouch)**:** This bill would extend, from 12 to 18 months, the time that a student remains eligible for coverage while on medical leave from college. This bill is on the Assembly Insurance Committee Agenda.
- A.3251 (Raia)**:** This bill would require every insurance policy issued or renewed to specify the amount of any assessment for the immediate policy period, the method it was calculated, the total years for which it will be assessed and the number of years remaining in the levy This bill is on the Assembly Insurance Committee Agenda.
- A.3966 (Barclay)**:** This bill would authorize primary care physicians to establish, offer and operate health care retainer programs which provide primary health services for a flat fee. This bill is on the Assembly Insurance Committee Agenda.
- A.4721 (Giglio)**:** This bill would require health insurance coverage for detoxification services for a minimum of seven (7) days and rehabilitation services for a minimum of thirty (30) days for substance use disorders. This bill is on the Assembly Insurance Committee Agenda.
- A.4899-A/S.7905 (Rosenthal/Griffo)**:** This bill would require health insurance coverage for opioid addiction medications during the entire period such medications are prescribed. This bill is on the Assembly Insurance Committee Agenda.
- A.5281-A/S.1668-A (Lawrence/Gallivan)**:** This bill would establish the "New York State Health Care Quality and Cost Containment Commission" to evaluate proposed benefits using evidence based medicine and in light of the implementation of the ACA. The Commission would also complete a quality and cost review of all mandated benefits currently in existence and requires follow up reviews, of all mandated benefits every three years. This bill is on the Assembly Insurance Committee Agenda.
- A.9082 (Rosenthal)**:** This bill would prohibit health insurers from imposing co-payments for the treatment in an opioid treatment program. This bill is on the Assembly Insurance Committee Agenda.
- A.9834-A (Rosenthal)**:** This bill would require commercial and Medicaid insurance coverage for non-pharmaceutical alternative treatment options including but not limited

to treatment provided by a licensed acupuncturist, licensed massage therapist, and yoga instructor. This bill is on the Assembly Insurance Committee Agenda.

- A.9952 (Rosenthal)**:** This bill would prohibit insurers from denying coverage for individuals that have taken/are currently taking pre-exposure prophylaxis or post-exposure prophylaxis. This bill is on the Assembly Insurance Committee Agenda.

Back to Top.

Grants/Funding Opportunities

Rapid Transition Housing Program

The Department of Health, Medicaid Redesign Team ("MRT") Initiative has released the Rapid Transition Housing Program Request for Applications ("RFA"). Funds available under this RFA are intended to re-procure and expand a rental subsidy and supportive housing services program for high-cost, high-need Medicaid members. This program was previously known as Nursing Home to Independent Living ("NHIL").

Eligible participants of the program are those individuals who are either currently enrolled in the program, or are individuals with one or more documented chronic physical disabilities and have two or more chronic conditions. Participants in the program must be on Medicaid and referred as homeless high-utilizers by a hospital, Managed Care Organization (MCO), medical respite, Performing Provider System (PPS), or skilled nursing facility (SNF).

The RFA will fund up to three projects to provide rental subsidies and supportive housing services. The anticipated amount of funding is **$7 million per year**, with $2.5 million allocated to currently served locations and $2 million allocated to one new location. The funded projects will:

1) Maintain and create new rental subsidies and supportive housing services for existing program participants, currently located in Onondaga County and in Nassau and Suffolk Counties on Long Island, or establish a rental subsidy program in a new area of the state that is currently unserved;
2) Develop and implement a system to provide rental subsidies on behalf of participants and provide supportive housing services to participants in order to sustain their ability to live in the community; and
3) Network with local hospitals, MCOs, medical respites, PPSs, and SNFs to obtain high-utilizer referrals to the program.

Eligible applicants include not-for-profit corporations and government agencies authorized to do business with, and available to provide services in, New York State. A qualified applicant must also have at least three years of experience in each of the following areas:

- Housing of homeless individuals or those coming from a skilled nursing facility.
- Providing housing services to help individuals remain stably housed.
- Connecting individuals to benefits and care.

RFA Timeline

- **Release Date:** May 24, 2018
- **Applicant Conference Registration Deadline:** May 30, 2018
- **Applicant Conference:** June 1, 2018 10:00 AM
- **Questions Due:** June 6, 2018
- **Questions, Answers and Updates Posted (on or about):** June 11, 2018
- **Applications Due:** June 29, 2018 by 4:00 PM

For more information and to apply to the RFA, click here.

Back to Top.

Upcoming Calendar

Thursday, June 7, 2018	Public Health and Health Planning Council 9:30 a.m. New York State Department of Health, 90 Church Street, 4th Floor, Rooms 4A and 4B, New York, NY
Wednesday, June 13, 2018	Early Intervention Coordinating Council 10:15 a.m. to 3:00 p.m. Empire State Plaza Convention Center, Meeting Room 7, Albany, NY

Back to Top.