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Legislature Passes Reproductive-rights Bills

On Tuesday of last week, the Legislature passed three bills related to reproductive-rights.

- Reproductive Health Act- January 22, 2019 marks the 46th anniversary of the Roe v. Wade decision, and State lawmakers passed this legislation that protects reproductive rights and abortion access even if the Supreme Court overturns Roe v. Wade.
- Comprehensive Contraception Coverage Act - requires health insurance policies to cover all Food and Drug Administration (FDA) approved contraceptives and prohibits insurers from imposing co-payments or restrictions and delays to coverage.
- The Boss Bill – prohibits employers from discriminating against employees based on their reproductive health decisions.

Later that evening, the Governor signed the Reproductive Health Act into law in a ceremony held with the attendance of Sarah Weddington, the attorney who argued the Roe v. Wade case in the U.S. Supreme Court. The other two bills await delivery to the Governor.

New York State Department of Health Budget Briefings on Medicaid and Health

Last week, the Department of Health held two Executive Budget Briefing Webinars on Medicaid and Health. The PowerPoint presentation for the “Health” Webinar has not yet been posted. The PowerPoint and webinar recordings for the Medicaid briefing are available [here](#).

The presentation discussed key Executive proposals under the Medicaid program related to Pharmacy, Long Term Care, Managed Care, Transportation, Health Homes, “Investing in Patient Care” (comprising four separate proposals, including expanding Medicaid coverage for diabetes prevention and Applied Behavioral Analysts), “Other” Proposals, and SUNY Hospital Investment, which includes a \$60 million investment to SUNY DSH funded by the Global Cap. The two largest proposed cuts are both in Long Term Care, which has exceeded projected growth under the Global Cap, and include a \$122.8 million savings cut related to nursing home case mix adjustment changes, and \$75 million related to CDPAP Fiscal Intermediary (FI) proposed program changes.

During the Q&A portion of the presentation, DOH indicated that there is interest among stakeholders to continue the “best aspects” of the DSRIP program and there will soon be conversations about what a new Waiver should look like as the existing Waiver is set to expire April 1, 2020. He mentioned other States had requested and received approval to have more time to implement their transformation plans, and while the plan back in 2014 was that value-based payments would be the carrying vehicle for many of these “promising practices”, at this time, VBP is not quite mature enough carry all of these capacities forward.

Attorney General James Reaches Multiple Settlements

New York along with 45 Attorneys General nationwide reach a \$120 Million Settlement with Johnson & Johnson and DePuy Inc. to resolve allegations that the company unlawfully promoted its metal-on-metal hip implant devices, the ASR XL and the Pinnacle Ultamet. The Attorneys General allege that DePuy engaged in unfair and deceptive practice by making misleading claims of rates of survivorship. New York State will receive \$4.6 million of the total settlement.

New York along with the federal government and other states have also reached a settlement with Walgreens Boots Alliance over Medicaid fraud allegations for over dispensing Insulin Pens. Walgreens will pay \$209 million to resolve the allegations of improper Medicaid billing, of which New York will receive \$6.5 million of the total settlement.

In a settlement reached with Walgreens separate and apart from the above, Walgreens will pay \$60 million to states and federal government to resolve allegation of violations of False Claims act by billing Medicaid at higher rates than its usual and customary rates (U&C) rates for select prescription drugs. New York will receive \$8 million of the total settlement.

All NYC Agencies Required to Inform Clients to Get Covered

NYC Mayor Bill de Blasio signed an executive order last week requiring City agencies to direct and inform clients how to enroll in health insurance coverage, whether through government funded coverage, or signing up through the New York State of Health Insurance exchange which has a January 31 deadline to buy into a Qualified Health Plan.

The City is goal at insuring 30,000 additional residents by July 2019 and continue to bring awareness of the [GetCoveredNYC](#) enrollment assistance program. As announced earlier this

month, the NYC Care program will connect individuals who are ineligible for health coverage, due to either financial challenges or immigration status, with a primary care doctor and access to select health services through a City partnership with NYC Health + Hospitals. NYC Care is expected to be implemented sometime in 2019.

Revised Delayed Claim Submission FAQ

[eMedNY](#) has recently released an alert related to the revised delayed claim submissions for all provider types. Please see the updated FAQ's regarding delayed claim submission which include inquiries from the eMedNY's August and September webinars.

Click [here to access the FAQ's](#).

Governor Cuomo Seeks Permission from Federal Administration for Medicaid Coverage for Prison Inmates

During the Governor's recent budget address, he had stated he would direct the Department of Health to request permission to provide Medicaid coverage for prison inmates 30 days prior to their release. No state is currently permitted to use Medicaid dollars to provide health services to inmates unless they are sent to a hospital, in which event the inmate would be provided medicine, clinical, mental health, and substance abuse treatments funded by state and local dollars.

The State plans to submit a waiver request in the next 90 days and could be approved allowing provision of Medicaid services to approximately 100,000 people exiting state correctional facilities and county jails.

Regulatory Update

Office of Mental Health

Expansion of Telemental Health (Tele-psychiatry) Services to Additional OMH Licensed Settings and Programs

The Office of Mental Health has issued a [notice of proposed rulemaking](#) to further expand on the opportunity to offer telemental health services in the New York State regulated mental health system. Originally limited to services provided by psychiatrists and nurse practitioners, these amendments expand the range of services that can be offered by mental health providers approved by the Office of Mental Health to deliver telemental health services to include services of psychologists, social workers, and mental health counselors.

The proposed rule is open to public comment for sixty days, beginning January 23, 2019 as posted in the New York State Register.

Worker's Compensation Board

Updates to Fee Schedules for Emergency Room, Rural Area Outpatient Clinics, Hospital Based Mental Health Clinics and Private Psychiatric Hospitals

The Worker's Compensation Board has issued a [notice of proposed rulemaking](#) to update and incorporate fees for medical services provided to injured workers. This proposed rule would impose costs on insurance carriers and self-insured employers, as the proposed rule increases the emergency room services reimbursement rate and establishes a fee schedule for clinic services and private psychiatric hospitals. The Board summarizes that the emergency room service fees have not been increased in 23 years (since 1995) and a set fee schedule for clinic services and private psychiatric hospitals, would help to insurance carriers and self-insured employers by providing a clear and an accepted method for determining the reimbursement rate for such services.

The proposed rule is open to public comment for sixty days, beginning January 23, 2019 as posted in the New York State Register.

Establishment of Prescription Drug Formulary

The Worker's Compensation Board has re-issued a [notice of revised rulemaking](#) to establish a drug formulary which would include high-quality and cost-effective pre-authorized medication. This rule would make changes to the current prescription drug formulary. The full text of the revised rule is posted at the State website: www.wcb.ny.gov

The proposed rule is open to public comment for thirty days, beginning January 23, 2019 as posted in the New York State Register.

Legislative Update

The Legislature will be in session Monday and Tuesday this week and have commenced their [joint budget hearings](#) which are scheduled through February 12th. The Health and Medicaid hearing is scheduled for 9:30 am on February 5th.

The following bills of interest are being addressed this week in the ***Assembly Health Committee***-

[A.976 Gottfried](#) – This bill creates an additional exception to the five year moratorium related to the processing and approval of applications for Licensed Health Care Services Agency (LHCSAs) in the state. This bill would allow the Commissioner of the Department of Health to make recommendations of certain applications that he or she, deems to be consistent with the goals for consolidation and improving health care delivery.

[A.1033 Gottfried](#) – This bill requires an enhanced level of written informed consent be presented to necessary parties before psychotropic medication can be prescribed for patients residing in nursing homes or adult care facilities.

[A.1034 Gottfried](#) – This bill extends the electronic prescribing exemption for nursing homes an additional two years, expiring March 31, 2021. Currently the exemption is set to expire March 24, 2019.

[A.1125 Gottfried](#) - This bill allows medical marihuana to be prescribed for a severe debilitating or life threatening condition if deemed there is a therapeutic or palliative benefit under the

practitioner's professional opinion and would repeal the current statutory list of eligible conditions.

Calendar

Tuesday February 5,
2019

2019 Health and Medicaid Joint Legislative Hearing
9:30 a.m.
Hearing Room B, Legislative Office Building, Albany

Tuesday February 12,
2019

NY Medicaid EHR Incentive Program Webinars ([More Details](#))
2:00 p.m.
Please sign up [here](#) to join this event.

Thursday, February 14,
2019

The Bureau of Tobacco Control and The New York State Tobacco Use Prevention and Control Advisory Board -- Video conference
9:00 a.m. to 3:00 p.m.
ESP Corning Tower Building, 2876A Conference Room, Albany, NY

The Drug Utilization Review Board (DURB)
9:00 a.m. to 4:00 p.m.

QUICK LINKS

[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](#)

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