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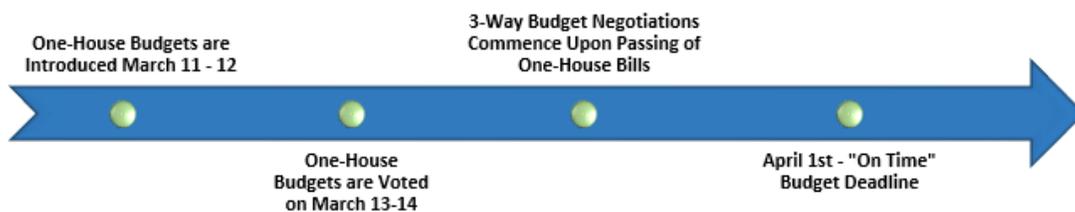
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## **State Budget Update**

The Governor and legislative Leaders have failed to reach a resolution on available spending for the 19-20 State Budget. As a result, by March 5<sup>th</sup>, the State Comptroller will determine the Budget deficit and available revenues. It is anticipated the Senate and Assembly will then introduce their respective SFY 2019-20 One-House Budget proposals early in the week of March 11<sup>th</sup>. Once introduced, the bills can be debated on the House floor and taken up for a vote on the third day. Once the Bills have passed their respective Houses, 3-Way budget negotiations will commence in efforts to reach an "on time" Enacted Budget deadline of April 1<sup>st</sup>.



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## **DFS Releases Report on In-Vitro Fertilization and Fertilization Preservation Coverage**

The Department of Financial Services (DFS) has recently released a report studying the feasibility of mandated coverage of medically-necessary fertility preservation (FP) and in-vitro fertilization (IVF) services in comprehensive commercial health insurance policies and contracts in New York. DFS procured a third party actuary, Wakely Consulting, Inc., to conduct a fiscal analysis and projection of the potential premium impacts of providing such coverage. Based on this study, Wakely estimates that the premium impact for adding medically-necessary FP coverage would be less than 0.02%, and mandating IVF would likely have a more significant premium impact, from approximately 0.5% to 1.1%, depending on the region and benefit design. The full DFS feasibility study is available [here](#).

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## **New York State Health Foundation Issues a Briefing on Surprise Billing**

The New York State Health Foundation released a [report](#) presenting the state's efforts to reform surprise medical billing. The report provides that there is growing concern relating to the issue of surprise billing on a federal level, and affirms that New York State is one of nine states that has provided protections to consumers.

Additionally, the report highlights suggested opportunities to increase protections to patients from surprise billings. View the full report [here](#).

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## **New York State of Health Announces Rapid Growth in New York's Small Business Marketplace**

The New York State of Health recently [announced](#) rapid growth in the state's small business marketplace (SBM) and attributes the success to the implementation of a simplified enrollment process and the addition of thousands of new plan options in 2018. The SBM has grown to 12,219 participants, an increase of 465%. Enrollment in the SBM is open year round and eligible businesses can receive federal Small Business Health Care Tax Credits by applying [here](#).

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## **Regulatory Update**

### **Department of Health**

#### **Durable Medical Equipment; Medical Surgical/Supplies; Orthotic and Prosthetic Appliances; Orthopedic Footwear**

The Department of Health has issued a notice of [adopted rulemaking](#) to amend the Department's regulation governing Medicaid coverage of orthopedic footwear and

compression and support stockings. The governing regulation were originally adopted in April 2011 as part of the Medicaid Redesign Team initiatives, limiting coverage of these items to Medicaid participants diagnosed with certain special medical conditions. This adopted rule aligns the Department's regulations governing reimbursement for orthopedic footwear and compression and support stockings, consistent with recent judicial case law.

The original notice of proposed rulemaking was posted in the [October 17, 2018](#) issue of the State Register. This regulation is effective as of 2/27/2019, though Medicaid providers have been allowed to claim Medicaid reimbursement since the original district court decision in December 2013.

### **Cardiac Catheterization Laboratory Centers**

The Health Department has issued a notice of [proposed rulemaking](#) that will amend the current CON process for the approval of Cardiac Catheterization Laboratory Centers to address the significant advances in technology and medical practices that have made Percutaneous Coronary Intervention (PCI) and cardiac surgery procedures safer.

This regulation changes the focus of need review for PCI services from being site specific to health system related; transitions need review from the State Hospital Review and Planning Council to Public Health and Health Planning Council; modifies requirements for projected volume of annual PCI cases; and provides various technical amendments.

The proposed rule is open to public comment for 60 days, beginning February 27, 2019 as posted in the New York State Register.

### **Department of Financial Services**

#### **Charges for Professional Health Services**

The Department of Financial Services has issued a notice of [emergency rulemaking](#) to delay the effective date of the Workers' Compensation fee schedule increases for no-fault reimbursement. The Worker's Compensation Board had issued a notice of proposed rulemaking in [December of 2018](#) intended to update and incorporate fees for medical services provided to injured workers. This proposed rule provides updates to the emergency room services reimbursement rate and establishes a fee schedule for clinic services and private psychiatric hospitals.

Based on public comments received, the implementation of the fee schedule is proposed to be postponed to go into effect on 10/1/2020 rather than 4/1/2019. This would allow additional time for insurers effected by the updated fee schedules to evaluate and make adjustments to the new fee amounts.

This emergency rule is effective as of 2/6/2019, and will expire May 6, 2019. The Department intends to adopt provisions of this emergency rule as a permanent rule and has submitted a notice of proposed rulemaking in the [February 20, 2019](#) issue of the State Register.

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### **Related Articles and Other News**

[Proposed Budget Cuts Could Jeopardize Ambulance Industry](#)

[U.S. Office of the Inspector General \(OIG\): CMS Improperly Paid \\$84M to Nursing Facilities](#)

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## **Legislative Update**

The Legislature will be in session Monday through Thursday of this week. The following bills of interest have been placed on committee agendas:

Senate Social Services (March 5, 10 a.m.)

- [S2601 \(Serino\)](#): This Bill would increase the Supplemental Security Income (SSI) rate for individuals receiving care in adult care facilities.

Assembly Health (March 6, Off the Floor)

- [A3654 \(Pretlow\)](#): This Bill would prohibit insurers participating in CHP from requiring that health care providers accept all products, including government programs, offered by an insurer.
- [A5974 \(Gottfried\)/S3900 \(Rivera\)](#): This Bill expands the eligibility for coverage under the Essential Plan to include adult immigrants whose immigration status renders him or her ineligible for federal financial participation.
- [A4482 \(Cusick\)/S3766 \(Parker\)](#): This Bill authorizes Mental Hygiene Legal Services (MHLS) to provide legal assistance to nursing home residents who have been directly admitted from an Office of Mental Health (OMH) licensed facility and who have a serious mental illness and are receiving services for such illness. A recent court decision found that MHLS lacks jurisdiction to represent individuals outside of an OMH licensed facility.
- [A2794A \(Gottfried\)/S3458 \(Rivera\)](#): This Bill would require Medicaid coverage for medically tailored meals and nutrition therapy.
- [A3316 \(Solages\)/S1809 \(Rivera\)](#): This Bill provides that Temporary Protected Status (TPS) beneficiary's shall continue to be eligible for Medicaid even if federal government ends designation of TPS for that individual's country of origin.
- [A1162A \(Gottfried\)](#): This Bill would authorize physician assistants (PAs) to execute DNRs and Medical Orders for Life Sustaining Treatment (MOLST).

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## **Calendar**

Tuesday, March 5,  
2019

Lead Poisoning Prevention Advisory Council  
10:30 a.m. to 3:00 p.m. at the School of Public Health,  
University at Albany, Health Sciences Campus, Café  
Conference Room

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Wednesday, March 6,  
2019

Commissioner's Medical Grand Rounds: Reversing the Trend  
in Maternal Mortality: What Every Provider Should Know  
7:30-9:30 am

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Wednesday, March 13,  
2019

Early Intervention Coordinating Council  
10:15 am - 3:00 pm  
Empire State Plaza Convention Center, Meeting Room 1,  
Concourse Level, Albany

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Wednesday, March 13  
& 14, 2019

New York State HIV Advisory Body (HAB)  
March 13 @ 10:45 a.m. and March 14 @ 9:00 a.m.  
DoubleTree by Hilton, 100 Nott Terrace, Schenectady, 12308

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Tuesday, March 19,  
2019

NY Medicaid EHR Incentive Program Webinars  
2:00 pm to 3:00 pm

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Thursday, March 28,  
2019

Meeting of the Public Health and Health Planning Council's  
Committee on Establishment and Project Review (EPRC)  
10:00 a.m.  
Empire State Plaza, Concourse Level, Meeting Room 6, Albany

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### 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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