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DOH and OCFS Issue Emergency Regulations Regarding Medical Exemption Process for School Vaccinations

The New York State Department of Health (DOH) and Office of Children and Family Services (OCFS) recently issued emergency regulations that clarifies the process by which physicians can extend medical exemptions for children attending school or child care. These regulations are intended to prevent the use of medical exemptions for non-medical purposes.

DOH and OCFS Announcement: Effective immediately, physicians who issue medical exemptions will be required to complete the applicable medical exemption form approved by the New York State Department of Health or New York City Department of Education, which specifically outlines the medical reason(s) that prevent a child from being vaccinated. Additionally, the regulations require physicians to outline specific justifications for each required vaccine in order to be able to grant an exemption. The prior regulation simply required a signed statement from physicians exempting the child from vaccination. This regulation applies to all children statewide, and will continue to require that exemptions are issued annually.

Department of Health Announcements

State Share of Medicaid Drug Spending Will Exceed the 2019-2020 Medicaid Drug Cap

The Division of Budget in consultation with the Department of Health has determined that the projected State share of Medicaid drug spending, net of all rebates, will exceed the Drug Cap in State Fiscal Year 2019-20.

The Department of Health will be hosting a webinar on the SFY 19-20 Medicaid Drug Cap on August 30, 2019.

Long Term Care Planning Project Meeting #4

The DOH and the State Office for the Aging (SOFA) have announced the fourth meeting of the Long Term Care Planning Project (LTCPP), an initiative designed to understand the projected needs of older adults in New York, and bring forward meaningful discussion on ways to improve aging and long term care in New York.

The fourth meeting of the LTCPP will take place on Tuesday, September 17, 2019 in New York City at The New York Academy of Medicine, located at 1216 Fifth Avenue, New York, NY. The meeting will begin at 1:30 p.m. The topic of this meeting will be the Long Term Care Workforce. This meeting will include an interactive panel of stakeholders discussing the long term care workforce and discussions centered on strategies to help resolve workforce challenges.

Interested parties can register at: https://ltcppmeeting4.eventbrite.com by Friday, September 13, 2019.

For more information on the LTCPP please visit the LTCPP webpage or email any questions to: ALTCteam@health.ny.gov

CMS Announces Upcoming Changes to Overall Hospital Quality Star Ratings

The Centers for Medicare & Medicaid Services (CMS) is announcing plans to update the quality measurement methodology of the Overall Hospital Quality Star Ratings located on the CMS Hospital Compare website in 2021. The 2020 upcoming refresh of ratings will be based on current methodology, as final modifications are made to the new upcoming methodology. The current ratings were last updated in February 2019.

The new methodology in the works is intended to include advancements from federal administration direction that will include additional transparency of quality and pricing intended to improve consumer choice options. During the public comment period, stakeholders shared over 800 comments that will help shape the new methodology. To read CMS's full announcement click here.

Regulatory Update

Education Department

Execution by Registered Professional Nurses of Non-Patient Specific Orders to Administer Immunizations

The Department of Education has *re-issued* a notice of emergency rule-making that allows registered professional nurses (RNs) to immunize infants, children and adults against additional infectious diseases, in accordance with current recommendations from the United States Centers for Disease Control and Prevention (CDC).

The original notice of emergency/proposed rulemaking was posted in the March 27, 2019 issue of the State Register. This emergency regulation includes recent revisions that replace the term "vaccines" to "immunizing agents" to include both vaccines and immunoglobulin drugs, allowing RNs to execute non-patient specific orders for such immunizing agents in efforts to combat recent outbreaks of Measles within certain areas of the state.

This emergency regulation is effective as of August 3, 2019, and will expire on September 30, 2019.

Certification of Manufacturers and Wholesalers for Export Purposes

The State Education Department (SED) has ***re-issued*** a notice of emergency rulemaking allowing the Commissioner of the SED to issue free sale certificates, permitting New York State registered manufacturers or wholesalers to sell their drugs and/or devices in foreign countries. Currently, the certificates can only be issued by the executive secretary of the State Board of Pharmacy, however this role is currently vacant with the departure of the Board's former executive secretary in January of 2019. A second emergency adoption is of this regulation is necessary to ensure that the emergency rule adopted at the May 2019 Regents meeting remains continuously in effect until the earliest possible effective date of its adoption as a permanent rule, which would September 25, 2019.

This emergency regulation is effective as of August 3, 2019 and will expire on September 30, 2019.

Department of Health

Nursing Home Weekly Bed Census Survey

The Department of Health has issued a notice of adopted rulemaking which requires nursing homes to electronically submit weekly bed census data to the DOH through the Health Commerce System (HCS). This rule reiterates a current practice of nursing homes to report weekly bed census data to the DOH. The regulation requires each nursing home's designated Nursing Home Data Reporter to transmit bed census data (reflecting the weekly census taken every Wednesday at 12:00 a.m.) to the DOH between Wednesday at 12:01 a.m. and the following Tuesday at 11:59 p.m.

The original notice of proposed rulemaking was posted on the State Register in the December 19, 2018 issue. This rule will is effective as of August 21, 2019.

Medical Use of Marihuana

The Department of Health has issued a notice of adopted rulemaking to allow independent analytical laboratories to apply for Environmental Laboratory Approval Program (ELAP) approval to test medical marijuana in New York State. Previously, due to federal requirements, Wadsworth Center is the only lab that meets the eligibility requirements to test medical marijuana products in the State. This regulation removes the requirement for a laboratory to obtain a federally-recognized Drug Enforcement Administration (DEA) registration, and only requires the ELAP approval. As the use of medical marihuana has been increasing through the addition of serious conditions and increase in qualifying patients, along with more registered organizations becoming operational and offer additional dosage forms, the capacity to test products in a timely manner is expected to be greater. This regulation allows additional independent labs eligibility to test the medical marihuana.

The original notice of emergency rulemaking was posted on the State Register in the April 24, 2019 issue, and this rule is effective as of August 21, 2019.

Office for People with Developmental Disabilities

Person Centered Planning: Care Management and Home and Community Based Services

The Office for People with Developmental Disabilities (OPWDD) has issued a notice of adopted rulemaking that makes several technical corrections to current regulatory framework regarding Medicaid Home and Community Based Services (HCBS) that are operated, certified, funded, or subject to oversight by OPWDD and shifts reference to the role of a “Care Manager” rather than a “service coordinator.” Additionally, this regulation expands applicable HCBS rights to those individuals receiving delivery of HCBS services in non-residential settings. This regulation will align the State with federal rule and requirements for state regulatory adoption, prior to the March 2022 deadline.

The original notice of proposed rulemaking was posted on the State Register in the May 29, 2019 issue, and this rule is effective as of August 21, 2019.

Related Articles and Other News

HHS Awards $107M to Support Quality Improvement in 1,200+ Health Centers

Audit: New York Incorrectly Claimed $117M in Enhanced Medicaid Reimbursement

Calendar

Friday, August 30, 2019	Department of Health: SFY 19-20 Medicaid Drug Cap Webinar - Webcast 10 a.m.
Thursday, September 10, 2019	September Meeting of the State Trauma Advisory Committee - Webcast 1:30 a.m. - 4:30 p.m.
Thursday, September 19, 2019	Drug Utilization Review Board Meeting - Webcast 9:00 a.m. - 4:00 p.m.
Thursday, September 19, 2019	Early Intervention Coordinating Council - Webcast 10:15 a.m. – 3:00 p.m.
Thursday, September 19, 2019	New York State AIDS Advisory Council Meeting - Webcast 10:30 a.m. - 1:00 p.m.
Thursday, September 26, 2019	The Public Health and Health Planning Council – Committee Meeting Day 10 a.m. 90 Church Street, 4th Floor, Rooms 4A and 4B, NYC

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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