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**Senate and Assembly Standing Committees on Health Held
3rd Public Hearing on New York Health Act**

The Assembly and Senate Health Committees held the third joint public hearing on the New York Health Act on Wednesday of last week in the Bronx. The hearing lasted approximately 7.5 hours, with testimonies by invitation only.

There is word that a fourth hearing may be held in the Hudson Valley in November however, no details have yet to be formally announced by the either Health Committee Chairpersons.

Assembly Standing Committees Hold Hearing on Municipal Health Insurance Alternatives

The Assembly's Standing Committee on Insurance and Standing Committee Local Government held a [hearing](#) to examine the risks and benefits of alternative methods by which local governments may provide health insurance benefits to their employees. Assembly Members – Kevin Cahill, Chair, Committee on Insurance and Fred Thiele, Chair, Committee on Local Government lead the hearing and heard testimony from industry professionals, including Troy Oecshner, Deputy Superintendent for the New York State Department of Financial Services (DFS).

The testimony presented by Mr. Oecshner centered on addressing the challenges faced by municipalities to address the underlying, and increasing costs to provide healthcare services to their employees. The increasing cost of health care is in turn driving the increasing cost to cover employees for that care. Mr. Oecshner's testimony provided a history, and the legislative intent for the enactment of Article 47 of the New York State Insurance Law in 1994, authorizing the establishment of Municipal Cooperative Health Benefit Plans (MCHBP).. Oecshner noted that the municipal's risk for insolvency is much greater without the adequate reserves. DFS regulatory oversight of the MCHBP is essential in order to assure adequate reserves are established and maintained, while Article 47 offers the MCHBP some flexibility to work with DFS in order to determine if below minimum reserves are sufficient.

Currently there are 12 MCHBPs established throughout the State and are regulated by DFS, with the Greater Tompkins County Municipal Health Insurance Consortium being the most recently established.

DOH Issues Nursing Home DAL Regarding Advanced Directives and Advanced Care Planning

The Department of Health (DOH) recently released a "Dear Administrator Letter" ([DAL NH #19-12](#)) clarifying current policy and guidelines regarding advance directives and the recommended use of advance care planning as part of the nursing home's comprehensive care planning process. The DAL reaffirms requirements for skilled nursing facilities to establish, maintain and implement written policies and procedures regarding the resident's right to convey an advance directive, as well as the resident's right of refusal of medical and surgical treatment.

The skilled nursing facility must have policies and procedures in place that allow staff the ability to quickly and easily identify a resident's advanced directives in the event of emergency in order to ensure resident wishes are maintained and should be evaluated on a routine basis. The advance directives include but are not limited to a living will, power of attorney, Medical Orders for Life-Sustaining Treatment (MOLST), and physician orders for Cardiopulmonary Resuscitation (CPR), Do Not Resuscitate (DNR), and Do Not Intubate (DNI).

Public Comment Days for New York's 1115 Waiver Programs

The State DOH held its downstate MRT 1115 Waiver Public Comment Day at Baruch College in New York City on Friday, October 25th. Public comment mainly conveyed recommendations that the DOH consider a more balanced approach for distribution of incentive funds to those health industry stakeholders that felt overlooked in the first version of the DSRIP Program. Particularly recommendations requested consideration for the providers who have focused efforts on transforming to a value based payment model such as behavioral health providers, home care providers, Managed Long Term Care Plans, hospice and palliative care providers, along with community based organizations. Additionally, several public comments included recommendations that there be a focus on gaps in care such as diabetes and pediatric behavioral health and a more detailed explanation for the role to be played by the Managed Care Organizations. The complete webcast is available on the DOH [website](#).

The DOH will hold its upstate public comment day for New York's 1115 waiver program on *Wednesday, October 30, 2019* from 11:00am - 2:00pm at The Oncenter Carrier Theater, located at 421 Montgomery Street, Syracuse, NY 13202. This is the last scheduled public comment day, as the State intends to submit a formal application to the Centers for Medicare and Medicaid Services (CMS) requesting a [four year waiver amendment](#) for continuation of the DSRIP Program. The State intends to submit its formal amendment request in December of 2019.

This meeting will also be webcast live at: <https://www.health.ny.gov/events/webcasts/> and will be open to the public.

Attorney General James Announces Settlement with Distributor of Suboxone

The New York Attorney General, Letitia James, along with other states' Attorneys General have [announced an agreement](#) that has been reached with a pharmaceutical distributor to settle allegations that the company improperly marketed and promoted the drug Suboxone, resulting in improper expenditure of state Medicaid funds. According to the AG's announcement, the distributor will pay \$700 million to settle the allegations, of which New York's Medicaid program will receive more than \$71.9 million in recoveries, with more than \$39.9 million being state funds.

Long Term Care Planning Project Meeting #5

The DOH and the State Office for the Aging (SOFA) held the **fifth** meeting of the Long Term Care Planning Project (LTCPP) with the discussion and presentations focused on Financing Alternatives to Public Programs.

The meeting included presenters from AARP, LeadingAge LTSS Center at UMASS Boston, and The Scan Foundation. The presenters shared detailed

analytical views and industry perspectives regarding alternative financing models used in other states, industry concerns associated with the growing costs that accompany LTC services, as well as discussion on the investments needed to support the continuum of LTC services in New York and other areas of the nation.

This last meeting concludes the list of scheduled LTCP meetings addressing the following topics generated by the [2018 LTC Statewide Survey](#):

- *Aging and Long Term Care Services – Improving Coordination, Communication, and the Consumer Experience,*
- *Evidence-Based Programs and Innovative Models in Aging and Long Term Care,*
- *Family Caregiving Support,*
- *Analyzing, Expanding, and Supporting the Long Term Care Workforce, and*
- *Financing Alternatives to Public Programs (Medicaid).*

The LTCP is now tasked to utilize the information, feedback and insight gathered from the meetings to prepare a strategic plan on how to meet the emerging needs of New York's aging population over the next decade.

Additional information and meeting material from the LTCP meetings is available on the LTCP [webpage](#) or email any questions to: ALTCteam@health.ny.gov

Regulatory Update

Department of Health

Transitional Adult Home Emergency Regulations

The Department of Health has issued a notices of [emergency rulemaking](#) and [proposed rulemaking](#) requiring Transitional Adult Home (TAH) operators to request a pre-admission screening, conducted by the DOH in coordination with the Office for Mental Health, prior to the admission of persons with serious mental illness by the TAH. The regulation delineates a process for determining whether a prospective resident is a person with serious mental illness and thus not eligible for admission without a waiver.

Upon the request of a pre-admission screening, the DOH will notify the TAH within three business days of receipt of the request with the results. If the screening results indicate the prospective resident may be a person with a serious mental illness, the prospective resident will not be eligible for admission unless a mental health evaluation, conducted within the 30-day period preceding admission, indicates the individual is not a person with a serious mental illness and is appropriate for care services of the TAH. This pre-admission screening is intended to help TAH operators avoid impermissible admissions, and strengthen compliance with existing regulations. The DOH has issued a “Dear Administrator Letter” ([DAL #19-28](#)) with additional details.

The emergency rule will expire January 1, 2020, and the proposed regulation will be open to public comment for 60 days from October 23, 2019.

Office of Mental Health

Personalized Recovery Oriented Services (PROS)

The Office of Mental Health (OMH) has issued a notice of [proposed rulemaking](#) that will allow PROS participants to receive Clinic Treatment from an article 31 Clinic operated by the same agency. The current regulation was written to prevent duplication of services resulting in duplicative payments. The evolution of Care Management, an internal Electronic Health Record (EHR) shared by all agency programs, along with agency tracking of a person's care have created multiple ways to ensure prevention of duplication of services.

This rule will be open to public comment for 60 days from its date of posting on October 23, 2019.

Office of People with Developmental Disabilities

Procedures for the Control of Tuberculosis

The Office for People with Developmental Disabilities (OPWDD) has issued a notice of [adopted rulemaking](#) to modify the tuberculosis testing requirements, authorizing certain exemptions for service recipients that are only receiving clinical services within an Article 16 clinic. This rule is effective as of October 23, 2019.

Related Articles and Other News

[Report: Payers have the tools to mitigate provider consolidation but lack incentive](#)

[Medicaid programs sign on with ride-sharing companies for non-emergency transport](#)

[Premiums on benchmark HealthCare.gov plans decline 4% for 2020: CMS](#)

Calendar

Thursday,
November 7, 2019

[The New York State Immunization Advisory Council Meeting](#) - Empire State Plaza, Meeting Room 3, Albany
12:30 p.m.

Thursday,
November 21, 2019

New York State AIDS Advisory Council Meeting
10:30 a.m. – 1:00 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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