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**2019 - Medicaid Compliance Program Certification Now
Available on the OMIG Website**

Compliance Program Certification information and forms for 2019 are now available on the New York State Office of the Medicaid Inspector General's ("OMIG") [Certification Page](#) under the "SSL Certification" button. Now that certification has begun, **providers subject to the certification requirement have until December 31, 2019 to complete the certification.** Entities subject to the compliance certification requirement should use the current online form to complete the annual certification for 2019.

As a reminder, all New York State Medicaid providers (and managed care plans) who are subject to the mandatory compliance program obligation set out in NYS Social Services Law Section §363-d and 18 NYCRR Part 521 must certify annually during the month of December that they have adopted and implemented a compliance program that meets all statutory and regulatory requirements via the

certification form on the OMIG website. Those entities that are subject to the mandatory compliance certification requirement include:

- Article 28 providers (e.g., hospitals, D&TCs, clinics, and skilled nursing facilities);
- Article 36 providers (CHHAs and LHCSAs);
- Article 16 and 31 providers (OASAS and OMH licensed and certified programs); and,
- Any person or provider or affiliate (including MCOs) who either has claimed or reasonably expects to claim \$500,000 in Medicaid payments in any consecutive twelve month period. This would include pharmacy providers and drug manufacturers, DME suppliers, primary care practitioners, surgical specialists, assisted living program providers (ALPs), or any Medicaid provider or MCO who meets the \$500,000 standard.

In addition to the certification required under NYS Social Services Law Section §363-d, those providers that make \$5 million or more in Medicaid payments during the Federal fiscal year (October through September) will also need to complete a separate Federal Deficit Reduction Act of 2005 Certification (“[DRA Certification](#)”) that is also available on the OMIG website. Similar to the NYS certification obligation, providers subject to the DRA must complete the DRA certification on or before January 1.

Additional guidance materials on OMIG’s compliance requirements are available [here](#).

Questions about compliance certification in general should be directed to OMIG’s Bureau of Compliance at (518) 408-0401 or via email at: compliance@omig.ny.gov.

VBP Updates - Public Comment for 2020 VBP/QARR Measure Specifications

The Department of Health has [published](#) the draft technical specifications for newly proposed quality measures for both the 2020 Value Based Payment ("VBP") Quality Measure Set and the 2020 Quality Assurance Reporting Requirements ("QARR"). The Department is seeking feedback on the proposed new measures.

The draft technical specifications, the New York State Value Sets, and the Public Comment Submission Form are linked below.

- [Quality Measure Public Comment Overview and Draft Technical Specifications](#)
- [New York State Value Sets](#)
- [Public Comment Submission Form](#)

Comments and questions specifically relating to the measures should be submitted in writing via the Public Comment Submission Form linked above to NYSQARR@health.ny.gov by Friday **December 20, 2019**.

Fourth & Final Joint Public Hearing on the New York Health Act

The State's Senate and Assembly Standing Committees on Health held the fourth and final public hearing on the New York Health Act ([A5248/S3577](#)) ("NYHA") for 2019, in Kingston. The NYHA establishes a government run "single payer" health care program funded through a progressively graduated payroll tax structure, providing universal health care to all residents of New York State.

The hearing went just short of eight hours, and included testimony from supporters as well as skeptics of the NYHA. Panelists who expressed skepticism on the legislation shared their insight on the uncertainty of the rate of taxation to cover the overall costs of implementing and maintaining the NYHA. Various small business representatives and business owners expressed grave concern regarding the undetermined rates of taxation on wages and the magnitude that those rates would alter or diminish the small business community.

Supporters of the legislation revisited the challenges and trials of the state's current health care system, identifying gaps of underinsurance, along with high costs of care, and cost of health coverage. The panelists providing a testimony at this hearing were by invitation only and a video of the hearing is available [here](#).

Department of Health Announcements

1115 Waiver Amendment Public Comments – The State Department of Health ("DOH") has posted a [link](#) to written public comments that were received after holding two public comment days regarding New York's 1115 Waiver programs. Included are comments regarding the draft of the Delivery System Reform Incentive Payment ("DSRIP") program 1115 Waiver Amendment proposal.

Formal Submission of 1115 Medicaid Waiver Amendment Request – DOH has formally submitted an 1115 Medicaid waiver amendment to the Centers for Medicare and Medicaid Services ("CMS") seeking approval for both a one-year extension and continuation of funding of the current waiver program; and a subsequent three-year renewal additional federal funding to support a new health care transformation framework, totaling \$8 billion over a four-year period. The current waiver is in place until it expires on March 31, 2020, and the State will continue seeking input on the renewal framework from CMS and the public through the one-year extension period.

The waiver renewal and extension requests submitted to CMS can be found here: www.health.ny.gov/health_care/medicaid/redesign/waiver_amendment_update.htm.

More information about promising practices and results of the current waiver can be found here:

www.health.ny.gov/health_care/medicaid/redesign/dsrp/index.htm.

The Department will also be sharing information about an upcoming webinar related to the waiver renewal in the coming days.

Minority Health Council Meeting – The Minority Health Council will hold its third meeting of 2019 on Friday, December 13, 2019. The meeting will include a presentation on the evidence based Pathways Community HUB, a community based organization service-network program model for sustainability in addressing social determinants of Health (“SDOHs”).

The meeting will be held from 9 a.m. – 1:00 p.m. at the New York State Department of Health, 90 Church Street, 4th Floor Conference Room 4C, New York, NY 10007

Attendees are asked to RSVP to The Office of Minority Health and Health Disparities Prevention by no later than COB Wednesday, December 11, 2019 by calling 518-474-2180 or email at: omhhdhp@health.ny.gov. This meeting will be available as a webcast as well on the Department’s [website](#).

DOH Commissioner Declares Influenza Now Prevalent

New York State Health Commissioner Dr. Howard Zucker, recently declared that [influenza is now prevalent](#) in New York State. This announcement puts into effect a regulation requiring that healthcare workers who are not vaccinated against influenza wear surgical or procedure masks in areas where patients are typically present. According to [recent numbers](#) from the Department of Health, as of November 30, there were 1,151 laboratory-confirmed influenza reports, a 59% increase over last week. This is the first week that “widespread” (more than 31 of the 62 counties have seen increased or sustained numbers) activity has been reported.

The number of patients hospitalized with laboratory-confirmed influenza was 220, a 73% increase over last week. The Department continues to urge all New Yorkers six months of age and over who have not yet received a flu shot to get vaccinated as soon as possible.

Regulatory Update

Department of Financial Services

The Department of Financial Services (“DFS”) has issued the following notices of rulemaking:

Electronic Filings and Submissions - Notice of [adopted rulemaking](#) that requires an insurer or other person or entity making a filing or submission with the Superintendent pursuant to the Insurance Law (a “filer”) to make certain filings or submissions electronically. Such filings would include filings and submissions of insurance fraud prevention plans and reports; rates and forms; annual and quarterly statements and supplements; and holding company and parent

corporation applications and reports. Prior to adoption of this regulation, there was no requirement that they make these filings or submissions electronically, however most filers voluntarily make certain filings or submissions electronically. This rule also allows a filer to request a hardship exemption by written request to the Superintendent 30 days prior to required electronic submission date.

This regulation was originally posted in the [May 15, 2019](#) issue of the State Register, and is effective as of May 25, 2019.

Valuation of Individual and Group Accident and Health Insurance Reserves - Notice of [adopted rulemaking](#) that adopts the *2016 Cancer Claim Cost Valuation Tables ("2016 CCCVT")* for first occurrence and hospitalization cancer expense benefit contracts issued on or after January 1, 2019, or if optionally elected, on or after January 1, 2018, replacing the 1985 National Association of Insurance Commissioners ("NAIC") Cancer Claim Cost Tables. All other subsequent cancer expense benefits, beyond the first occurrence, are to be assumptions based on relevant experience. These valuation standards are identical to those adopted by the NAIC in 2017.

This regulation was originally posted in the [May 15, 2019](#) issue of the State Register, and is effective as of November 27, 2019.

Continuing Care Retirement Communities ("CCRCs") - Notice of [adopted rulemaking](#) to update and expand financial oversight and transparency of transactions between a continuing care retirement community and its parent, affiliate or subsidiary. Modeled after Insurance Law Article 15 regarding insurer holding companies, the regulation requires transactions to be: fair and equitable; clearly and accurately disclosed; and subject to written agreements. Additionally, the proposed rule includes requirements that a CCRC obtain the Superintendent's approval prior to entering into certain transactions and that a CCRC provide written notification to the Superintendent of DFS at least 30 days prior to entering into certain other transactions.

Minimum Standards for Form, Content and Sale of Medicare Supplement and Medicare Select Insurance, et al - Notice of [adopted rulemaking](#) to establish a framework for the form, content and sale of Medicare supplement insurance as required by federal law. States must have a regulatory program that provides a minimum level of coverage, which is equal to or more stringent than the standards set forth in the NAIC Model Regulation, as established by 42 U.S.C. Section 1395ss.

In accordance with the federal Medicare Access and CHIP Reauthorization Act of 2015 ("MACRA"), the NAIC adopted a revised model regulation to implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act ("the Act"). The Act sets forth the model standards for all states, providing "grandfather" protections including the option to continue coverage for those individuals insured under a Plan C who carry coverage up to January 1, 2020, and requires Medicare supplemental plans to offer either a Plan D or G in addition to Plans A and B to all individuals newly eligible for Medicare. Additionally, a new high deductible Plan G has been created for offering beginning January 1, 2020.

The changes included in the proposed regulations reflect those required by MACRA.

An [appendix](#) providing additional details was filed with the original notice of proposed regulations posted in the [August 7, 2019](#) issue of the State Register. This regulation is effective as of January 1, 2020.

Information Subject to Confidential Treatment - Notice of [proposed rulemaking](#) that allows for regulated entities to share confidential supervisory information with its legal counsel or independent auditor without the prior written approval by the Department, under certain agreed to circumstances. The regulated entity is required to maintain written record of all supervisory information disclosed under such agreements, and DFS may require the supervisory information be returned to DFS and destroy any and all copies.

This regulation will be open to public comment for 60 days from November 27, 2019.

Department of Health

Secondary Syringe Exchange in New York State

The Department of Health has issued a notice of [emergency/proposed rulemaking](#) that establishes a second-tier syringe exchange program, outside of the existing requirements, that are approved by the Commissioner, expanding access to sterile syringes. Additionally, this rule also requires any new not-for-profit organization or government entity seeking to participate in the expanded syringe access program ("ESAP") incorporate overdose response training in their plan of work.

This emergency rule will expire February 9, 2020, and the proposed regulation will be open to public comment for 60 days from November 27, 2019.

Legislative Update

After adjournment of the 2019 Legislative Session, bills that have passed both houses of the Legislature will continue to be delivered to the Governor in “batches” over the next few months. Once a bill has been delivered to the Governor, he has 10 days (excluding Sundays) to either sign the bill into law or veto the bill.

The following bills were recently delivered to the Governor:

- [A364B \(Paulin\) / S3344B \(Ramos\)](#) – This Bill authorizes the professional certification of doulas and defines doula services as continuous emotional and physical support provided by a certified doula throughout labor and birth, and intermittently during the prenatal and postpartum periods.
- [A2880 \(Hunter\) / S5328 \(Breslin\)](#) – This Bill requires all health insurers to cover an additional or related service or procedure without prior authorization, when a health care provider determines it is immediately necessary, and is not medically advisable to interrupt the provision of care

to gain prior authorization, while in the process of providing an initially authorized service or procedure, or the initial procedure did not require prior authorization. This Bill also allows for limited circumstances for denial of coverage of the additional or related service of procedure.

The following bills were recently acted on by the Governor:

- [S1813 \(Rivera\) / A3918 \(Mc Donald\)](#) – **Veto #151** – This Bill would allow the partial filling of prescribed opioids at the discretion of the patient and the pharmacist filling the prescription.
- [S1803 \(Rivera\)/ A8193 \(Schimminger\)](#) – **Veto #157** – This Bill would reduce the regulatory complexity and oversight of Continuing Care Retirement Communities (“CCRCs”).
- [A670A \(Bronson\) / S6212A \(Kennedy\)](#) – **Veto #171** – This Bill would require insurance coverage for outpatient treatment by mental health practitioners licensed under the Education Law, including, within their scope of practice, mental health counselors, marriage and family therapists, creative arts therapists or psychoanalysts.
- [A7578A \(Gottfried\) / S5485 \(Rivera\)](#) – **Veto #183** – This Bill authorizes individuals eligible for managed long term care to be auto-assigned to an MLTC plan if the individual has not chosen a plan within the first 75 days of eligibility, and extends the individual’s eligibility if the auto-assignment is not completed within 75 days. Additionally, this Bill provides automatic recertification for MLTC enrollees and mainstream managed care members receiving personal care services.
- [S5605B \(Rivera\)](#) – **Veto #184** – This Bill authorizes annual in-service training and hours to be submitted for inclusion in the Home Care Worker Registry on behalf of worker by the supervising home care agency.
- [S5780 \(May\) / A7458 \(Wallace\)](#) – **Signed Chap.564** – This Bill will extend certain provisions of the long-term care (“LTC”) ombudsman program for two years.

Calendar

Wednesday,
December 11, 2019

Early Intervention Coordinating Council Meeting -
Empire State Plaza Convention Center, Meeting Room
1
10:15 a.m. – 3:00 p.m.

Thursday,
December 12, 2019

Committee on Codes, Regulations and Legislation
("CRLC"); Full Public Health and Health Planning
Council ("PHHPC") Meeting - New York City
9:30 a.m. - 5:00 p.m.
PHHPC Council will meet directly after the CRLC

Tuesday, December
17, 2019

Assembly Standing Committee on Alcoholism and Drug
Abuse Meeting **Subject of Discussion** - Substance

Use Disorder Services and Barriers to Accessing Those Services. To be held in Assembly Hearing Room, 250 Broadway, Room 1923, 19th Floor, New York, New York 11:00 a.m.

Thursday,
December 19, 2019

Public Health and Health Planning Council's Public Health Committee Meeting
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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