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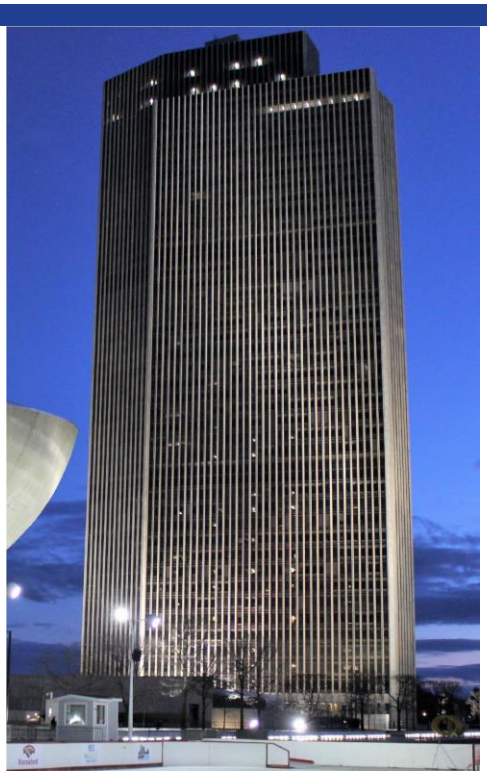

PLUGGED IN TO HEALTH

Healthcare & Policy Coverage Across New York State

March 29, 2021

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Expanded Eligibility for COVID-19 Vaccine: Age 30+ Followed by Ages 16+

Today, Governor Cuomo **announced** that New York will further expand eligibility to receive the COVID-19 vaccine. Beginning on March 30th, **individuals age 30 years and older** can begin scheduling appointments to be vaccinated, followed by individuals age 16 years and up beginning on April 6th.

As of March 29th, over **9 million doses** of the COVID-19 vaccine have been administered to New Yorkers, with 5.9 million individuals receiving the first dose, and 3.36 million completely vaccinated.

Executive Order No. 202.99

The Governor signed Executive Order ("EO") **No. 202.99** which continues the State Disaster Emergency for an additional 30 days, through April 25, 2021. This EO also continues any suspensions and modifications of law, unless superseded, modified or otherwise expired, made by EO 202 and each successor EO to 202 for an additional 30 days, through April 25, 2021. Through this EO, the Governor extends the period for paying property taxes which are due in the Town of Mount Pleasant, Westchester County, by twenty-one days without interest or penalty.

In addition, this EO modifies and extends the following, consistent with Chapter 71 of the Laws of 2021, through April 25, 2021:

The directive contained EO 202.91, as modified by EO 202.97, which requires retail pharmacies to prioritize vaccine administration, is modified such that, pharmacies shall prioritize the following groups for COVID-19 vaccinations: (1) individuals age eligible; (2) individuals who are P-12 school (public or non-public) teachers, substitute teachers, or student teachers; and (3) individuals with comorbidities.

Visitation Guidance Updates: ACFs, Nursing Homes, and Hospitals

The Department of Health (DOH) has issued updated guidance on visitation in adult care facilities (ACFs) and nursing homes. The updates to visitation in these facilities are supported by the revised visitation guidance issued by the Centers for Medicare and Medicaid Services (CMS) on **March 10, 2021**. Also, since the release of prior iterations of visitation directives by DOH for health care facilities, several COVID-19 vaccines have received Emergency Use Authorization from the FDA. Millions of doses of vaccines have since been administered to long-term care facility residents, health care workers, and facility staff across the country, and have shown pronounced efficacy in helping to prevent the symptomatic spread of SARS-CoV-2 infection (i.e., COVID-19).

Adult Care Facilities – *Effective as of March 25th*, **visitation in ACFs** is expanded for all communities, provided that the facility adheres to **core principles and best practices** as outlined in this guidance that reduces the risk of COVID-19 transmission. The updates to visitation in ACFs, among other provisions, eliminate certain restrictions included in previously issued DOH guidance, and permits visitation regardless of: 1) the presence of a new onset of positive case(s) among residents or staff, 2) COVID-19 positivity rates in the local area, or 3) a facility's recent survey compliance history.

Limitations on the maximum number of visitors is no longer based on the occupancy of the facility, rather the Department allows the operator discretion on the number of visitors at any given time, provided that the number of visitors does not negatively affect the ability to maintain the core principles of infection prevention.

Residents in isolation or observation, and residents with suspected or confirmed COVID19 status still remain ineligible for visitation, except for compassionate care or end-of-life situations.

This guidance also relaxes certain standards for group activities and communal dining and highlights the lifting of domestic travel testing and quarantine

requirements going into effect on April 1, 2021. This guidance supersedes and replaces all previously issued guidance and recommendations regarding visitation. ***A memo providing greater details relating to ACF visitation has been provided to ACF clients.***

Nursing Homes – *Effective as of March 25th*, **visitation in nursing homes** is expanded through the adoption of various provisions of CMS's revised visitation guidance (memorandum **QSO-20-39-NH**) and CDC guidelines and amends certain restrictions included in previously issued DOH guidance on visitation.

Specifically, this guidance identifies appropriate instances where indoor visitation can still occur when a nursing home experiences a new case of COVID-19 in the staff or a resident, provided only that there are appropriate **safeguards in place (including outbreak testing)** and there is evidence that the transmission of COVID-19 is limited and contained to a single area (e.g., unit) of the facility.

The State has also adopted recommendations from CMS that allow indoor visitation at all times and for all residents of a nursing home (regardless of vaccination status), **except** for a few circumstances when visitation should be limited due to a high risk of COVID-19 transmission.

Among various other updates included in this revised guidance, the maximum number of visitors at a nursing home in one day, at any given time will be at the discretion of the nursing home administrator, such that the administrator take into consideration how the number of visitors may negatively affect the ability to maintain **core principles of infection prevention**.

Further, the Department continues to strongly encourage that all nursing homes continue to test visitors prior to entering the facility, to help reduce the risk of COVID-19 transmission. ***A memo providing greater details relating to nursing home visitation will be forthcoming***

Hospitals – *Effective April 1st*, **revised hospital visitation guidance** allows each patient to have up to two visitors at a time for up to four hours per day unless otherwise disallowed by the hospital according to the patient's status, condition, circumstances, OR hospital policy. At times, additional visitors may also be allowed based on hospital discretion, or the hours may be increased, at the hospital's discretion. Additional allowances related to labor and delivery, pediatrics, patients with intellectual and/or developmental disabilities (I/DD), end-of-life situations, and procedures are also outlined within this guidance.

Reopening Guidance for Medical Model Adult Day Health Care Program

The DOH has **issued guidance** authorizing the resumption of Adult Day Health Care (ADHC) services to programs which are interested in reopening. The Department will use a two-phased approach for re-opening to allow ample time for ADHC programs to train staff – including training on standards for infection control for both staff and registrants, obtain authorizations from managed care or community physician for such services, and communicate to registrants and families, vendors, and transportation providers.

Phase #1 will allow approved "off-site" ADHC programs across the state which may apply to re-open beginning April 1st.

Phase #2 will allow approved ADHC programs co-located on the grounds or immediately adjacent to the sponsoring nursing home where there are no active COVID-19 cases associated with the co-located nursing home, ***and*** the nursing home meets the eligibility criteria for visitation open beginning April 15, 2021.

Prior to reopening, each ADHC program must submit a NY Forward Safety Plan (the "Plan") to the Department via email to: **covidnursinghomeinfo@health.ny.gov**

The ADHC program's Plan must specifically address three key areas of operation including: 1) physical distancing; 2) infection control measures, including screening of registrants, staff, and visitors; and 3) transportation. Details regarding these three key areas are outlined in this reopening guidance.

Excelsior Pass – Digital App to Share COVID-19 Vaccination/Test Status

New York State has **announced** the launch of the **Excelsior Pass** –

"a free, voluntary platform developed in partnership with IBM, which utilizes proven, secure technology to confirm an individual's recent negative PCR or antigen test result or proof of vaccination to help fast-track the reopening of businesses and event venues in accordance with New York State Department of Health guidelines."

Using a unique, secure QR code, participating businesses and venues can scan a QR code to verify proof of an individual's COVID-19 negative test results or proof of vaccination, prior to permitting entry to large or small venues and

events in which attendance will be above the State's current social gathering limits.

The Pass is open to any New Yorker who is vaccinated or tested for COVID-19, with three different types of Passes available: COVID-19 Vaccination Pass; COVID-19 PCR Test Pass; and COVID-19 Antigen Test Pass.

For additional information on how to receive and use the Excelsior Pass click **here**.

Medicaid Update: Medicaid Pharmacy Carve-Out – Special Edition Part Two

The Department of Health (DOH) has issued a **Medicaid Update – Special Edition (Part Two)** pertaining to details of the State's transition of pharmacy benefits for members enrolled in mainstream Medicaid Managed Care (MC) Plans, Health and Recovery Plans (HARPs), and HIV-Special Needs Plans (HIV-SNPs), from managed care to fee-for-service (FFS). This transition (known as the "Pharmacy Carve-Out") of benefits is scheduled to be implemented on May 1, 2021.

This Update includes information regarding the following topics, to help ensure that providers and pharmacies have the necessary information for a successful transition.

Information for Pharmacies:

- Where to locate the Client Identification Number (CIN) on each plan ID card;
- Methods for checking Medicaid member eligibility or obtain the CIN;
- Identifying one-time "transition fills";
- Billing for COVID-19 vaccines;
- Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) coverage and billing guidance; and
- Brand Less than Generic (BLTG) Program;

Information for All Providers (Including Pharmacies):

- Prescription Limits Change — Duration and Refills (current and future prescriptions);
- Updates to the Medicaid FFS Formulary (List of Reimbursable Drugs);
- Diabetic supplies;
- Over the Counter (OTC) Drug coverage; and

Provider Enrollment: Information on how to enroll and deadlines for -

- Prescribers;
- Podiatrists, Dentists, Optometrists, Audiologists, and Certified Nurse Midwives;
- Pharmacies, DMEPOS providers, and Physician Dispensers.

Additional provider and program resources are also available **here**.

Webinars on the Interactive Voice Response System (IVR)

The Department of Health's, Office of Health Insurance Programs, Bureau of Medical Review will be conducting **webinars on the Interactive Voice Response System (IVR)** for ordering providers, pharmacies, and DMEPOS providers on the use of the IVR system for enteral product prior authorizations. Webinar topics include:

- Introduction to FFS Enteral Approvals
- How to use the IVR System
- Helpful information to use the IVR System
- Question and Answer

DOH is currently accepting registrations for webinars scheduled for the following dates:

- March 25, 2021 at 1:00 PM
- April 7, 2021 at 10:00 AM
- April 13, 2021 at 1:00 PM
- April 22, 2021 at 1:00 PM

Interested providers can register **here**.

CMS Opens Public Comment Period for NY's MRT Waiver Extension Request

On March 24th, the Centers for Medicare & Medicaid Services (CMS) opened the federal public comment period for **New York State's application** requesting a 3-year extension of the 1115 Demonstration Medicaid Redesign Team (MRT) Waiver which is set to expire on March 31, 2021. The proposal seeks an extension of all current programs and authorities under the MRT waiver, including the programmatic changes that will transition Medicaid pharmacy benefits from managed care to fee-for-services. CMS has approved a **temporary extension** of the MRT demonstration through March 31, 2022.

The federal public comment period will be open from March 24, 2021 through April 23, 2021 and comments can be **viewed or submit by clicking here.**

Regulatory Update

Department of Labor (DOL) –

The DOL has issued a notice of **emergency rulemaking** which reduces the sett-off to recover non-willful overpayments of unemployment insurance (UI) benefits from 50 percent to 20 percent of benefits. This rule is in effect for 90 days and will expire on June 5, 2021.

Legislative Update

The Legislature will be in session most of this week. It is anticipated that the Legislature and the Governor will finalize agreements on the FY 2021 -2022 State Budget as negotiations continue throughout the week, leading up to April 1. Additionally, the following bills of interest have been placed on committee agendas.

Assembly Codes (1:30 PM, Tuesday, March 30 - **Assembly Virtual Meeting**)

A1248A (Peoples-Stoke) / S854A (Krueger) – This Bill will establish a comprehensive cannabis regulatory framework which will, among other provisions, authorize the lawful growing of and use of cannabis by persons twenty-one years of age or older; authorizes the use of medical cannabis, adult-use cannabis, cannabinoid hemp and hemp extracts, and cannabis research licensing – all regulated by the state under independent entities, known as the "Cannabis Control Board" and the "Office of Cannabis Management"; and enacts the "Marihuana Regulation and Taxation Act".

This Bill (A1248A/S854A) has also been placed on the *Senate Finance Committee* agenda which is scheduled to meet at 11:00 AM, Tuesday, March 30 – (**Senate Virtual Meeting**)

A2681B (Reyes) – This Bill requires the Commissioner of the Department of Labor in consultation with the DOH to create and publish a model airborne infectious disease exposure prevention standard for all worksites, differentiated by industry, to establish minimum requirements for preventing exposure to airborne infectious diseases in a workplace. Additionally, this bill permits the creation of workplace health and safety committees which allows employers and employees to work together to stop the spread of airborne infectious diseases.

Coming Up

Wednesday, March 31, 2021 at 11:00 a.m. **– Council on Human Blood and Transfusion Services (COHBATS)** – Post-event Audio to be available **here**.

Thursday April 8, 2021 at 9:30 a.m. **– The Public Health and Health Planning Council (PHHPC) Full Council Meeting –** Webcast

Thursday, April 29, 2021 @ 10:30 a.m. to 1:00 p.m. **– New York State AIDS Advisory Council Meeting**

Quick Links

NYS Department of Health --- NYS DOH – Quick LinksMeetings, Hearings & Special Events --- Medicaid Redesign Team --- Senate Health Committee Website --- Assembly Health Committee Updates --- NYS Division of Budget

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