Joint Legislative Budget Hearing on Health and Medicaid

Last Wednesday, members of the New York State Senate and Assembly Health Committees took part in the 2013-14 Joint Legislative Budget Hearings on Health & Medicaid in Albany. The meeting lasted from 10:00 a.m. to just past 7:00 p.m. and featured the testimony of Department of Health Commissioner Nirav Shah, New York State Medicaid Inspector General James C. Cox and 36 other diverse health care organizations across the state. A full list of the organizations that presented (or submitted) testimony is available [here](#).

Commissioner Shah briefly highlighted some of the Executive’s recent achievements, touting the success of various managed care initiatives, and $100 million in savings that will be achieved for counties by capping growth in local Medicaid costs. He announced that construction for supportive housing units in the Bronx had recently broken ground, and ardently defended the state’s proposal to consolidate appropriations into six general pools with DOH authority over how funds would dispensed, explaining that it is “more important to meet the needs of the recipients than the needs of the provider.” Senator Hannon and Assemblyman Gottfried both took issue with this proposal, as did nearly every organization who testified, citing both policy concerns and the fact that DOH lacks the resources to conduct the RFPs this would require in a timely fashion.

Department of Health Budget Briefings

Last week, the Department of Health held two budget briefings to provide additional information on the Executive’s health proposals.

Medicaid Director Delivers Presentation on Medicaid Reforms and the Executive Budget

DOH Medicaid Director Jason Helgerson led an hour-long presentation on the Medicaid
related proposals contained in the Executive Budget.

The PowerPoint for the Webinar is available [here](#), while a detailed fiscal report of the proposals is available [here](#).

Mr. Helgerson noted that the state will see approximately $83 million in Medicaid savings by implementing the ACA, and that roughly half of these savings ($43 million) will stay in the Medicaid program. He also discussed various investment proposals (slide 9), including (among others):

- **Supportive housing** – the goal is to have this fund grow to over $100 million, and the State is beginning to reinvest funds when institutions close (Nursing Homes) back into supportive housing;
- **VAP program** – noting that it is the largest single investment they are making in the Medicaid program ($154 million);
- **Health home investment** – targeted investments to Health Homes in the start-up phase that have not yet received HEAL funds or grants; and
- **Better integration of physical and behavioral health services** – involving two total pilot projects with total funding of $15 million.

The Department will host a follow-up briefing tomorrow, February 5, via [Twitter](#), to answer questions on the Budget proposals.

**DOH Public Health Proposals**

DOH also held a webinar to specifically discuss the Executive’s proposals on Early Intervention General Health Public Works (Article 6 local health department changes), modifications to Article 23 (STDs) and, the most controversial Health Budget proposal thus far, “Outcome Based Contracting and Health Planning.” This is the proposal that consolidates various appropriations into six competitive pools to allow DOH to determine appropriations for organizations on a competitive basis. The competitive pools relate to chronic disease, environmental health and infectious disease, workforce, Maternal and Child Health Outcomes; HIV, AIDS, Hepatitis C and STDs; Health Quality and Outcomes; and Workforce Development.

Gus Birkhead, Deputy Commissioner of the DOH Office of Public Health led the discussion, and it appears he is leading this initiative. He explained that the purpose of the consolidation was to make sure funding is focused “where it can do the most good.” He also said the Department will focus on evidence-based outcomes in making its funding determinations. Dr. Birkhead said the Department will take a look at existing contracts and will use RFPs to determine appropriations.

The competitive pool consolidation is based on a similar approach used by DOH in 2010-11 with HIV and Cancer funding. Dr. Birkhead said this resulted in better administrative efficiencies and afforded the Commissioner greater flexibility to determine and direct funds to appropriate areas.

DOH advised that they will be holding additional stakeholder meetings in the future, and that organizations impacted should receive information that their “line” has been allotted to a specific competitive pool prior to those meetings. DOH did not take any questions, even though the Webinar ended 30 minutes early. They did say that there will be an opportunity for Q&A at upcoming stakeholder meetings. There was no mention of the competitive pools in the MRT Budget Briefing and no indication when future stakeholder meetings would be held.
Health Insurance Exchange Update

On January 31, 2013 the New York Health Benefit Exchange issued its invitation to health insurers and dental plans to participate in the New York Health Benefit Exchange. The invitation and related documents are available [here](#).

The Exchange also released last week new policy studies on the SHOP Exchange and Health Insurance Markets. The [SHOP Exchange policy study](#) is an analysis conducted by KPMG to assess the needs of employers, producers, insurers, employees and the Small Business Health Options (SHOP) Exchange to assist in planning for the design, implementation and operation of a successful SHOP Exchange in New York State.

The [health insurance markets study](#) describes the current state of New York's individual and small group insurance markets, including the market concentration of insurers, geographic distribution of enrollment, cost sharing and actuarial value of plans offered and the distribution channels for accessing insurance in these markets. The study was prepared by Health Management Associates (HMA).

DOH January Medicaid Update

The Department of Health has issued the January edition of [Medicaid Update](#), summarizing recent programmatic developments. This month's edition includes updates on new legislation regarding the provision of the Pertussis (Whooping Cough) vaccine by Article 28 hospitals, procedure codes under the Dental program, electronic health records, spousal support financial requirements and several pharmacy related initiatives, as well.

DOH Contracts for Temporary Operators of Adult Care Facilities

DOH has issued temporary licenses to three contractors to operate an Adult Care Facility and to provide congregate care for displaced residents in need of services as a result of superstorm Sandy damage to existing Adult Care facilities. Contracts are expected to run November 2012 – January 2013 with a monthly renewal option. The contractors are: Center for Nursing and Rehabilitation, Inc.; The Hebrew Home at Riverdale; and the Institute for Community Living. The Department had previously received an exemption from initially publishing this contract opportunity in the NYS Contract Reporter.

Regulatory Updates

Department of Health

[Medicaid State Plan Amendment for Early Intervention Services](#)

The Department issued a public notice of a proposal to amend the Medicaid State Plan to exempt Early Intervention services from the two percent Across the Board payment reduction for Medicaid services. Effective on and after February 1, 2013, Early Intervention services would be exempt from the reduction.
Medicaid State Plan Amendment for Medicaid Payments to Diagnostic and Treatment Centers

The Department issued a public notice of a proposal to amend the Medicaid State Plan to provide funding for public Diagnostic and Treatment Center (DTC) services. Upon the election of the social services district in which a DTC is physically located, the proposal would provide up to $12.6 million in additional annual Medicaid payments to public DTCs operated by the New York City Health and Hospital Corporation, based on each DTC’s proportionate share of the sum of all clinic visits. The proposal would also provide up to $5.4 million in additional annual Medicaid payments to county operated free-standing clinics for services provided by DTCs and county operated mental health or substance abuse DTCs. The increased payment is contingent on the approval for federal financial participation.

Legislative Spotlight

Last week, Co-Senate Majority leaders Skelos and Klein and Assembly Speaker Silver announced their joint Legislative Schedule for the 2013-14 State Budget, which aims to pass the Budget by March 21—a full 10 days before it is due. If successful, this would mark the earliest the budget has been completed since 1983. The Schedule sets forth a relative timeline for Committee Meetings and conferences to take place and is currently scheduled as follows:

- February 27: Senate/Assembly Fiscal Committee Economic & Revenue Reports Released
- February 28: Joint Revenue Forecasting Conference
- March 1: Revenue Consensus Report
- March 11: Senate & Assembly budget actions
- March 11: Joint Senate/Assembly budget conference committees commence
- March 14: Final Report of Joint Conference Committee
- March 18-21: Joint Legislative budget bills taken up by Senate & Assembly

Joint Legislative Budget hearings will continue to run through Feb. 27.

The Legislature will be in Session today and tomorrow, February 4 and 5. Here’s a look at what’s on the agenda:

This Week:

A.2180A (Assemblyman Gunther) / (No Senate Sponsor): “Safe Patient Handling Act” – This bill would create an 11 member New York State Safe Patient Handling workgroup within the Department of Health. All facilities covered by the act would be required to file a plan for compliance with the Department of Health by July 1, 2015 that must be accepted by DOH by July 1, 2016. Nursing Homes would be afforded an additional year, with a compliance plan not required until July 1, 2016, and DOH acceptance by July 1, 2017. This bill is on the Assembly Health Committee Agenda, scheduled for Tuesday February 5, at 11:00 a.m.

A.4062 (Assemblyman Gottfried) / (No Senate Sponsor): This bill would expand the membership and duties of the special advisory review panel on Medicaid managed care (MMCARP) by including other managed care programs within its scope of review. These programs would include Child Health Plus, Family Health Plus, Managed Long Term Care and other public managed-health care plans. The bill would also add two public members with expertise in disabilities and pediatrics and have MMCARP review issues of the appropriateness and timeliness of services, the integration of federal health care reform, trends in service denials and demographic data as well as review of federal waiver. This bill is on the Assembly
Health Committee Agenda, scheduled for Tuesday February 5, at 11:00 a.m.

**A3139** (Assemblyman Gottfried) / **(No Senate Sponsor)**: This bill would divert new admissions to nursing homes when they are unable to maintain safe and appropriate standards. The Department of Health would notify hospitals and nursing homes that the nursing home is on diversion, and the facility would remain on diversion until it has complied with all standards of care for at least six days.

The bill defines the basic standards of care to include adequate food, one bed for each resident, adequate heating and cooling and adequate direct care nursing staff, which is defined as enough staff to provide an average of at least three hours of direct nursing care per resident. The bill is on the Assembly Health Committee Agenda for Tuesday, February 5. The bill was introduced in the Assembly last year but had no Senate Sponsor.

**A1124** (Assemblyman Rosenthal) / **S.2947** (Senator Hannon): This bill would require that all health care practitioners complete course work or training regarding pain management and palliative care appropriate to their practice every four years. The Department of Health would provide exemptions for those providers that can demonstrate they have completed equivalent training, or that there is no need for such training in their specialty. The Assembly bill is on the Assembly Health Committee Agenda for Tuesday, February 5.

**Upcoming Calendar**

<table>
<thead>
<tr>
<th>Monday, February 4</th>
<th>New York State Council on Graduate Medical Education</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>10:00 a.m. to 1:00 p.m.</td>
</tr>
<tr>
<td></td>
<td>90 Church Street, Floor 4, Rooms A &amp; B, New York, NY</td>
</tr>
<tr>
<td></td>
<td>Webcast is Available:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tuesday, February 5</th>
<th>DOH Live Twitter Chat on Health Budget Proposals</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Time TBD</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Thursday, February 7</th>
<th>Meeting of the Full Public Health and Health Planning Council</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Time TBD</td>
</tr>
<tr>
<td></td>
<td><strong>Special Meeting of the Establishment &amp; Project Review Committee to Directly Proceed the Full Council Meeting</strong></td>
</tr>
</tbody>
</table>

Plugged in to Health at Hinman Straub is prepared by Hinman Straub P.C. and is intended to keep our clients informed about health news and Legislative and regulatory developments that may affect or otherwise be of interest to them. The comments contained herein do not constitute legal opinion and should not be regarded as a substitute for legal advice. If you prefer not to receive these updates, please alert us so we may remove you from our distribution list. © Hinman Straub P.C. 2013. All rights reserved.