



This Week in New York

Covering New York State and City Government

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April 22, 2022 Edition



“Every record has been destroyed or falsified, every book rewritten, every picture has been repainted, every statue and street building has been renamed, every date has been altered. And the process is continuing day by day and minute by minute. History has stopped. Nothing exists except an endless present in which the Party is always right.”
-George Orwell, 1984-

In the News – New York State

NYS Postpones Nail Salon Ventilation Requirements

Advocates Call for Passage of Nail Salon Minimum Standards Council Act (A9398/S8166) to Protect Workers

Citing COVID-19 impacts, the Department of State (DOS) this week published emergency regulations postponing the implementation of ventilation requirements in nail salons until October 4, 2022. The regulations, first announced in 2016, were scheduled to go into effect April 4th.

Following the announcement, the Steering Committee for the New York Healthy Nail Salons Coalition — which includes NYCOSH, Adhikaar, and Workers United NY NJ Regional Joint Board -- railed against the Hochul administration’s delay in implementing the standard designed to keep frontline nail salon workers safe from inhaling toxic chemicals.

“Nail salons have had over five years to comply with this standard and are now using the pandemic as an excuse to skirt compliance of a requirement that they have long had notice of. But the COVID-19 pandemic doesn’t justify further delay — it only exacerbates the need for urgent action, particularly with everything we have learned about the importance of ventilation during the pandemic. By agreeing to delay these standards yet again, New York State is failing to protect workers' health and safety, and it speaks volumes about how our government chooses to treat a workforce that is mostly immigrant women of color,” the Coalition asserted.

According to a notice published this week in the *State Register*, “In consideration of the ongoing COVID-19 pandemic and the financial impact it has had on these businesses, the Department finds that it is necessary to adopt these regulations on an emergency basis for the preservation of the general welfare. Specifically, extending the current deadline by 6 months will help businesses remain open, recover losses and come into compliance with existing requirements, while also protecting employees from potential job losses.”

The Coalition asserts that DOS and the Hochul Administration did not notify the workers prior to the delay and are calling for passage of the Nail Salon Minimum Standards Council Act (A9398/S8166), sponsored by Senator Jessica Ramos and M of A Harry Bronson, to give nail salon workers a formal voice in their workplace and establish baseline standards and fair pricing rules.

“Every single nail salon technician in New York, regardless of their race or where they work, deserves to have a safe and healthy working environment, free from unnecessary exposure to toxic chemicals,” the Coalition explained. “But right now, our state’s nail salon techs, who are overwhelmingly AAPI and Latina, put themselves at risk every day they show up for work. Without proper ventilation where they work, nail techs are at an increased risk for serious health issues like miscarriages, cancer and asthma.”

The regulation requires all businesses offering nail services to provide ventilation to capture and exhaust harmful contaminants, fumes and particles, away from clients and workers. These standards both govern the primary ventilation system, and require the use of local exhaust systems, also known as source capture ventilation, at each manicure and pedicure station. The ventilation standards are part of the 2015 International Mechanical Code (“2015 IMC”).

“It’s very concerning to hear that the government made this decision without even consulting us as workers,” said Goma Yonjan Gurung, nail salon technician for 25 years and Adhikaar member leader. “We have been holding our breath, waiting for ventilation at salons for years now, and with the first extension, we thought that was all. But with the additional extension today it makes me wonder when will we ever get the health protections we need? Salons are opening up, the summer is coming and we know that it is about to get busy. This is what happens when we are not given a seat at the table - changes happen in our industry that we did not ask for.”



Comptroller DiNapoli Finds Medicaid Billing Errors of Nearly \$1 Billion

The state Department of Health (DOH) made \$965 million in payments to providers, including facilities, for services ordered, prescribed, referred, and attended by practitioners who were not enrolled in the health care program, including those who had been barred due to misconduct, according to [an audit released](#) this week by State Comptroller Thomas DiNapoli.

“Medicaid is a critically important program, but its payment system is rife with errors,” Comptroller DiNapoli said. “My auditors found the system was allowing payments on claims involving providers who were not certified to treat Medicaid patients. This not only costs taxpayers, but also allows providers who should be excluded, and may be unqualified, to treat patients. DOH must improve its efforts to fix the shortcomings with its billing system.”

The New York State Medicaid program provides a wide range of medical services to low-income New Yorkers or to those who have special health care needs. For the state Fiscal Year ended March 31, 2021, New York’s Medicaid program had approximately 7.3 million recipients and Medicaid claim costs totaled \$68.1 billion.

Auditors found eMedNY, DOH's Medicaid claims processing system, allowed improper payments for services involving ordering, prescribing, referring, and attending providers who were no longer actively enrolled in the Medicaid program at the time of the service. The improper payments included \$5.8 million for services involving providers who were excluded from participating in Medicaid due to past improper behavior or wrongdoing.

The audit covered the period of January 2015 to December 2019. DiNapoli noted DOH made changes to eMedNY in February 2018 which led to a significant drop in the amount of improper payments. However, for the period March 2018 through December 2019, auditors still identified about \$45.6 million in claim payments for 135,476 services by ineligible providers.

Comptroller DiNapoli's auditors noted that when inactive providers are included on Medicaid claims, DOH lacks assurance those providers can furnish such services, and it increases the risk that excluded, or otherwise unqualified, providers are treating Medicaid enrollees.

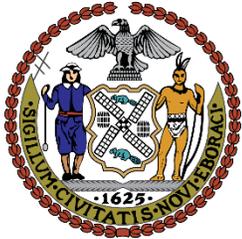
Comptroller DiNapoli recommended DOH:

- Review the \$965 million in payments for Medicaid claims involving inactive providers and determine an appropriate course of action;
- Enhance controls to prevent improper Medicaid payments for claims that do not report an active provider; and
- Update guidelines to clarify billing requirements.

Department officials generally agreed with most of the audit recommendations and indicated that certain actions have been and will be taken to address them. DOH's full response is included in the audit.

In addition, a [second audit](#) found that from January 2016 through December 2020, DOH potentially overpaid \$9.6 million for durable medical equipment, prosthetics, orthotics, and supplies that likely should have been provided by nursing homes as part of the daily all-inclusive rate paid to those facilities. A [third audit](#) covering Medicaid claims processing for the six months ended March 31, 2021 found nearly \$7.4 million in improper Medicaid payments, including \$3.3 million paid for fee-for-service inpatient claims that should have been paid by managed care or that were also reimbursed by managed care, and \$1.5 million paid for inpatient claims that were billed at a higher level of care than what was actually provided. Auditors contacted providers and by the end of the audit fieldwork, about \$5.6 million of the improper payments had been recovered.

In the News – New York City



Council Leadership Calls on Mayor to Increase Affordable & Supportive Housing Investments & Expand Solutions to Homelessness in Executive Budget

City Council leaders and housing advocates this week called for Mayor Eric Adams to incorporate the housing priorities of the Council’s Preliminary Budget Response to increase investments in affordable housing, expand specific homeless services, and create safer neighborhoods.

The press conference, led by Speaker Adrienne Adams, Deputy Speaker and General Welfare Committee Chair Diana Ayala, Housing & Buildings Committee Chair Pierina Sanchez, and Progressive Caucus Co-Chairs Lincoln Restler and Shahana Hanif, specifically called for investing more in affordable and supportive housing, while expanding funds for effective housing and homelessness solutions.

“Housing is New Yorkers’ top priority for creating safe and healthy neighborhoods,” said Speaker Adrienne Adams. “We know the pathway to addressing homelessness is through affordable housing. Effective and thoughtful policies that help people remain housed and stable are in front of us; we just have to implement them. The Council is focused on addressing this crisis with sound investments and strong solutions that will help unhoused New Yorkers find permanent homes and ease the mounting pressure that all New Yorkers are feeling on housing.”

In its Fiscal Year 2023 Preliminary Budget Response, the Council’s housing investments include:

- Expanding capital budget investments in affordable and supportive housing to \$4 billion.
- Investing over \$300 million to increase the most effective homeless services and housing solutions that promote housing stability and prevent and transition people from homelessness, and \$90 million to support homeownership stability.
 - **Investing \$114 million for over 2,300 new safe haven and stabilization beds and additional drop-in centers.** The Mayor’s Subway Safety Plan included 140 new Safe Haven Beds, 350 new Stabilization Beds and new Drop-in Centers. The Council asserts this falls short of what is needed and the Mayor’s Preliminary Budget lacked funding for even this amount. The Council believes its budget response aligns more with the number of unsheltered New Yorkers being 2,376, as indicated by the Preliminary Mayor’s Management Report.
 - **Accurately fund CityFHEPS rental vouchers** that help people transition into permanent housing or avoid eviction. The baseline budget should be increased to a level that more accurately reflects the full need and fully funds the voucher rate increase.
 - **Investing over \$28 million to expand supporting housing for people who are justice system-involved** so people leaving jail, prison or long-term hospital stays aren’t excluded from supportive housing, making them more likely to face homelessness.

- **Investing over \$49 million to convert previous hotel shelters to affordable housing** units for families to avoid homelessness.
- Fully funding single room occupancy emergency shelter units for New Yorkers living with HIV/AIDS at \$47.9 million.
- **Increasing the baseline budget for domestic violence shelter beds by \$41.6 million** to meet the actual need for domestic violence survivors by adding 800 units, ensuring adequate options for LGBTQ+ individuals and families.
- **Investing over \$3 million to increase the number of beds for Runaway and Homeless Youth** ages 21-24 years old.
- **Providing a Property Tax Rebate for Homeowners in Need.** The City should provide a property tax rebate to certain households receiving the basic and enhanced STAR tax breaks with authorization from the state. The Council estimates the rebate would cost the City \$90 million in Fiscal 2023.

Additionally, the Council also urged Mayor Adams' Administration to fix the bureaucratic issues at the New York City Department of Social Services that are reducing the ability to transition people out of homelessness or prevent them from falling into it. Specifically, the Council cited that in recent months, the vast majority of New Yorkers eligible to receive CityFHEPS housing vouchers have not received them and over 2,000 supportive housing apartments have been left empty because of agency issues with placing eligible New Yorkers in apartments.

Briefs

Legality of NY's Congressional Maps to be Considered by Court of Appeals Next Week

Rochester Appeals Court Rules Congressional Districts Drawn with "Partisan Intent," While Approving the State Legislative Lines

New York's Court of Appeals will begin hearing oral arguments in the matter of *Harkenrider v. Hochul* on Tuesday, as the legal challenge of the State's Congressional redistricting maps has made its way to the State's highest court.

On Thursday, the five-judge New York 4th Appellate Division appeals panel ruled that new congressional districts drawn by the State Legislature violated the State's ban on partisan gerrymandering. The panel voted 3-2 to partially uphold a lower-court ruling that would block the State from using the lines in the upcoming June primary and November elections. In addition, the court found the process lawmakers used to enact the maps was permissible and concluded that the 213 districts for state legislators were properly drawn.

"Democratic leaders in the legislature drafted the 2022 congressional redistricting map without any Republican input, and the map was adopted by the Legislature without a single Republican vote in favor of it," a three-judge majority wrote in [its opinion](#). Two judges dissented. "Under the 2012 congressional map there were 19 elected Democrats and 8 elected Republicans and under the 2022 congressional map there were 22 Democrat-majority and 4 Republican-majority districts."

“We are satisfied that petitioners established beyond a reasonable doubt that the Legislature acted with partisan intent,” the judges concluded.

The Senate Democrats lauded the decision on the State legislative districts and now looked to the Court of Appeals for its consideration on the Congressional lines.

“We are pleased the Court upheld the legislature’s process and the right for the legislature to enact these maps,” state Senate Democratic spokesperson Mike Murphy said in a statement. “The newly-drawn Senate and Assembly maps are now valid. We always knew this case would end at the Court of Appeals and look forward to being heard on our appeal to uphold the Congressional map as well.”

John Faso, a spokesman for the Republican-backed voters challenging the maps, said that they would file their own appeal to try to strike the state legislative maps. He called Thursday's decision a “great victory,” according to published reports.

Governor Hochul to Nominate Timothy Hogues as Commissioner and President of the State Civil Service Commission

Governor Kathy Hochul this week announced that she will nominate Erie County Personnel Commissioner Timothy Hogues to serve as the Commissioner and President of the State Civil Service Commission.

Since 2012, Hogues has served as a Personnel Commissioner for Erie County where he was responsible for overseeing services provided to over 130 appointing authorities and approximately 24,000 employees county wide.

Previously, Hogues served as Commissioner for the Erie County Department of Senior Services and as an Operations Manager at private firms in the Buffalo area. In addition, he served in the Erie County Legislature (2012-13). He is a graduate of University of Buffalo with a B.A. in Business Administration and Management.

Moody's Investors Service Upgrades New York State's Credit Rating

Governor Kathy Hochul this week announced the recent upgrade of various credit ratings for New York State by Moody's Investors Service, including the upgrade of New York's issuer rating and ratings on general obligation, personal income tax revenue and sales tax revenue bonds, to Aa1 from Aa2.

In justifying the upgrade, Moody's cited New York State's "agile financial management that has resulted in balanced or nearly [balanced] budgets projected through the state's five-year financial plan."

"Recognizing its need for a financial buffer to counter the volatility inherent in the state's economic and revenue structure, it has channeled some of those resources into expanded reserves, reductions in certain outstanding liabilities, such as postponed pension contributions, and risk reduction," Moody's wrote in the report. "...These actions point to the role of strong governance in triggering the upgrade."

Mayor Adams Appoints Jessica Tisch as Commissioner of Department of Sanitation

New York City Mayor Eric Adams this week announced the appointment of Jessica Tisch as Commissioner of the New York City Department of Sanitation (DSNY).

Most recently, Tisch served as commissioner for the Department of Information Technology and Telecommunications (DoITT), where she launched the modernization of the city's information technology infrastructure and managed COVID-19 response and recovery efforts. As DSNY commissioner, Tisch will manage the city's waste collection, recycling, and disposal, as well as cleaning and snow removal for approximately 6,500 miles of city streets.

Prior to joining DoITT, Tisch served as Deputy Commissioner of information technology at the NYPD, where she spearheaded efforts to use technology to transform the NYPD's fundamental business processes, including how officers are dispatched and respond to 911 calls, take crime reports, investigate, and search for wanted or missing persons. Tisch began her public service career in 2008, when she joined the NYPD.

She is a graduate of Harvard College, Harvard Law School, and Harvard Business School, and is a lifelong New Yorker.

Mayor Adams Announces Steps to Welcome Equitable Cannabis Economy to New York City

Mayor Adams is proposing a \$4.8 million investment in his Fiscal Year 2023 Executive Budget to promote the growth of the City's cannabis industry. The investment would fund a multiagency community outreach effort, as well as technical assistance for businesses navigating the licensing process.

The multiagency effort will include targeted outreach and resources from the New York City Department of Small Business Services (SBS), the New York City Economic Development Corporation (EDC), and the Mayor's Office of Criminal Justice (MOCJ). In the coming months, these agencies will work to begin identifying stakeholders in impacted communities, launching a public education tour to educate people about the new process, promoting an educational media campaign, and assessing the needs of interested parties to better tailor their services and programs to assist those interested in participating in the industry. Additionally, EDC is prepared to offer assistance to entrepreneurs seeking to access the financing and real estate required to start and grow their businesses.

Mayor Adams Appoints Jason Graham as Chief Medical Examiner

New York City Mayor Eric Adams this week announced the appointment of Jason Graham, MD as New York City's Chief Medical Examiner. A board-certified forensic pathologist with expertise in multi-fatality incident management and the investigation of opioid overdose deaths, Dr. Graham has served at the Office of Chief Medical Examiner (OCME) in top leadership positions throughout the past decade, most recently as Acting Chief Medical Examiner.

Dr. Graham served as acting chief medical examiner since December 2021 and previously as first deputy chief medical examiner, the second highest leadership position within OCME, since 2013. He joined the agency in 2006, also serving as deputy chief medical examiner for Manhattan.

A native of Tennessee, Dr. Graham graduated from the University of Tennessee College of Medicine. He completed general surgery internship and anatomic pathology residency at Emory University School of Medicine in Atlanta and subspecialty fellowship training in forensic pathology at the Emory/Fulton County Medical Examiner program. Dr. Graham is board certified by the American Board of Pathology in both anatomic and forensic pathology. He currently holds faculty appointment as chair for the Department of Forensic Medicine at the New York University Grossman School of Medicine and is a member of the American Academy of Forensic Sciences and the National Association of Medical Examiners.

Coming Up

New York State

Monday, April 25th

Assembly Session, New York State Capitol Building, Assembly Chambers, Albany, 1:45 p.m.

Senate Session, New York State Capitol Building, Senate Chambers, Albany, 3 p.m.

Tuesday, April 26th

Assembly Session, New York State Capitol Building, Assembly Chambers, Albany, TBD

Senate Session, New York State Capitol Building, Senate Chambers, Albany, 3 p.m.

Wednesday, April 27th

Assembly Session, New York State Capitol Building, Assembly Chambers, Albany, TBD

Senate Session, New York State Capitol Building, Senate Chambers, Albany, 11 a.m.

New York City

Monday, April 25th

Committee on Youth Services, Remote Hearing – Virtual Room 1, 1 p.m.

Oversight – DYCD Community Center Programming - Beacon Cornerstone, and Saturday Night Lights.

Tuesday, April 26th

Subcommittee on Landmarks, Public Sitings and Dispositions, Committee Room – City Hall, 10 a.m.

Committee on Governmental Operations, Remote Hearing – Virtual Room 2, 10:30 a.m.
Oversight – New York City’s Civic Engagement Commission.

Subcommittee on Zoning and Franchises, Remote Hearing – Virtual Room 1, 11:30 a.m.

Wednesday, April 27th

Committee on Land Use, Remote Hearing – Virtual Room 1, 10 a.m.

Committee on Cultural Affairs, Libraries and International Intergroup Relations, Remote Hearing – Virtual Room 2, 10 a.m.
Oversight – Using NYC Libraries to Help Overcome Youth Learning Losses Due to COVID-19.

Committee on Economic Development, Remote Hearing – Virtual Room 3, 1 p.m.
Oversight – The Economic Impact of the Hunts Point Food Distribution Center.

Thursday, April 28th

City Council, Hybrid Hearing - Council Chambers – City Hall, 1:30 p.m.

Friday, April 29th

Criminal Justice, Remote Hearing – Virtual Room 1, 10 a.m.
Oversight – Self-Harm and Suicide Prevention in City Jails

Committee on Sanitation and Solid Waste Management, Hybrid Hearing - Council Chambers – City Hall, 11 a.m.

“No man can be a good citizen unless he has a wage more than sufficient to cover the bare cost of living, and hours of labor short enough so after his day’s work is done he will have time and energy to bear his share in the management of the community, to help in carrying the general load.”

-Theodore Roosevelt-

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