



This Week in New York

Covering New York State and City Government

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In the News – State



Federal Government Denies NY's Request to Extend Medicaid Reform Waiver



The Federal Center for Medicare & Medicaid Service (CMS) will not renew New York's Delivery System Reform Incentive Payment (DSRIP) waiver, bringing an end to the \$8 billion Medicaid reform plan and costing the state \$625 million.

Governor Andrew Cuomo made the announcement Monday, explaining that the decision will add to New York's \$ 3.1 billion projected 2020-2021 Medicaid shortfall. Earlier this year, the Governor charged the Medicaid Redesign Team II (MRT II) with developing a plan to cut \$2.5 billion from the state insurance program to help address the shortfall. The waiver expires March 31st.

"Health care should be beyond politics, and it is unconscionable that the federal administration is politicizing the lives of New Yorkers — primarily senior citizens," Governor Cuomo said in a press release.

In its rejection letter, received Friday, February 21st, CMS noted that in its 2014 approval letter, the Obama administration said the DSRIP award was "'time-limited and [...] explicitly intended to be a one-time investment in system transformation that [could] be sustained through ongoing reimbursement mechanisms and/or state and local initiatives.'"

New York's December Medicaid Waiver Amendment proposal requested an extension to utilize approximately \$625 million in current program unspent funds and a renewal of the \$8 billion federal investment. Specifically, the Cuomo administration asked that the state be allowed to spend \$625 million from the first DSRIP project after the initial March 31 deadline. According to Budget Director Robert Mujica, the State could not draw down the entire earlier DSRIP funding prior to the close of the State's fiscal year. The second request was a four-year renewal of the DSRIP program, giving New York another \$8 billion in federal funding. CMS denied both requests.

According to published reports, New York Medicaid officials previously acknowledged that there was no guarantee the program would be renewed. Specifically, Medicaid documents show that Donna Frescatore, state Medicaid director, indicated that DSRIP funding could end after the initial five-year period.

"After five years, when the DSRIP funding stops, gains realized will be impossible to maintain unless significant steps are made to align payment mechanisms with these new care models," Director Frescatore wrote to the CMS in 2018, according to published reports.

First established in 2014, DSRIP’s goal was to put federal funds toward preventative health care to reduce hospital use among Medicaid patients by 25% over five years. The breakdown of the \$625 million funding loss follows:

DSRIP Performing Provider Systems (PPS)

Funding

New York City

Bronx-Lebanon Hospital Center	\$ 8,545,132
St. Barnabas PPS, St. Barnabas Hospital dba SBH Health System, Bronx Partners for Healthy Communities	\$ 19,990,806
New York Hospital Medical Center of Queens PPS (Presbyterian)	\$ 1,364,033
Richmond University Medical Center & Staten Island University, Staten Island PPS	\$ 24,561,822
Maimonides Medical Center	\$ 25,767,912
Mount Sinai PPS	\$ 16,314,209
NYU Lutheran PPS, Lutheran Medical Center; Brooklyn Bridges PPS	\$ 8,127,391
New York City Health & Hospitals Corporation, NYC HHC, NYC Health + Hospitals	\$ 137,493,647
Advocate Community Providers, Inc., ACP (SOMOS)	\$ 39,953,315
The New York and Presbyterian Hospital	\$ 5,731,324
Nassau University Medical Center, NUMC, Nassau-Queens PPS, LLC.	\$ 52,577,847
NYC Total	\$ 340,427,439

Outside New York City

AHI	\$ 20,930,831
iHANY, Ellis Hospital, AFBHC	\$ 27,865,422
Albany Medical Center Hospital (AMCH) PPS	\$ 15,748,286
Southern Tier Rural Integrated Performing Provider System United Health Services Hospitals, Inc.	\$ 25,110,123

SUNY Upstate; CNY DSRIP Performing Provider System, Inc. Sisters of Charity Hospital of Buffalo, New York, <u>DSRIP Performing Provider Systems (PPS)</u>	\$ 18,619,630
Catholic Medical Partners, Community Partners of WNY	\$ 5,100,833
Finger Lakes PPS, FLPPS	\$ 62,754,287
Mohawk Valley PPS; Mary Imogene Bassett Hospital; Bassett Medical Center	\$ 7,921,320
Erie County Medical Center, ECMC	\$ 22,505,689
NCI, Samaritan Medical Center	\$ 8,677,143
Refuah Health Center, Inc.,	\$ 2,525,538
SUNY at Stony Brook University Hospital, Stony Brook University Hospital	\$ 21,289,481
Montefiore Medical Center; Hudson Valley Collaborative PPS	\$ 14,469,921
Westchester Medical Center, WCMC	\$ 31,054,057
Outside NYC Total	\$ 284,572,561



Governor Cuomo Seeks \$40 Million For Coronavirus Response

Governor Andrew Cuomo this week announced a \$40 million appropriation for the New York State Department of Health (DOH) to hire additional staff, procure equipment, and any other resources necessary to respond to the potential novel coronavirus pandemic.

The Governor will also propose legislation to grant authority to DOH Commissioner Dr. Howard Zucker to ensure local health departments and public and private hospitals statewide take certain actions and measures in response to the novel coronavirus outbreak as needed. DOH will convene local health departments and hospitals statewide to review protocols, best practices and procedures to help ensure they are prepared to combat the spread of the novel coronavirus.

Earlier this week, President Trump requested \$2.5 billion in emergency funding to combat the outbreak. In addition, he tapped Vice President Mike Pence to lead the federal government's response to the corona virus.

In a radio interview this week, Governor Cuomo called Vice President Pence's designation a "sensible choice," citing that directing the response to the outbreak requires an effective manager who can coordinate across the various federal agencies.

"Preparedness is a monumental logistical and management operation," he said. "It's a management task and a mobilization task."

Governor Cuomo is also calling on the federal government to authorize the Wadsworth Center and NYC Public Health Lab to test for the virus, allowing for expanded testing capacity and expedited test results. According to the Governor, New York State has independently worked to develop and validate a test using the CDC protocol. Upon FDA approval, Wadsworth can immediately begin testing to support New York State and other states in the northeast region if necessary.

Additionally, DOH will work with the MTA, Port Authority and its airport operators, and the authorities' respective workforces to ensure workers have the necessary training and access to supplies, including cleaning and protective equipment, they need to continue to operate mass transit systems and airports. The State is also coordinating with all state agencies.

As of today, samples from 27 New Yorkers have been sent to the Centers for Disease Control and Prevention for testing, 26 have come back negative with one result still pending. There are still no confirmed cases of novel coronavirus in New York State.

In the News – City

Green New Deal: Mayor de Blasio Announces New Energy Code to Meet Challenge of Global Warming

Mayor Bill de Blasio announced the passage of the 2020 NYC Energy Conservation Code following this week's successful vote in the New York City Council. This updated energy code provides a new benchmark of sustainability and energy efficiency for all construction in the five boroughs. The energy code will go into effect on May 12, 2020.

"We must meet the challenge of global warming by tackling the single largest source of emissions in New York City – our buildings," said DOB Commissioner Melanie La Rocca. "Our revised Energy Code means that new construction and improvements to existing buildings will be part of the solution to climate change, not contributing to the problem. By helping us implement the Green New Deal, these strict energy standards ensure we are leading the nation by building a more sustainable and fairer city for all."

New York City's 2020 Energy Conservation Code is based upon the 2020 New York State Energy Conservation Construction Code and the New York State Energy Research and Development Authority's (NYSERDA) NYStretch Energy Code. The new city energy code adds energy efficiency requirements that are specific to New York City. The 2020 code mandates that construction projects:

- Improve the building thermal envelope with better performing walls and windows.
- Seal and test the building envelope to minimize and control air leakage.
- Require balconies and parapets to be continuously insulated.
- Identify thermal bridging elements in the building envelope.
- Meet minimum energy efficiency requirements for heating and cooling systems.
- Require more efficient interior lighting and additional lighting controls.
- Perform commissioning on more HVAC alteration projects.
- Require efficiency measures on new elevators and commercial kitchen equipment.
- Require the infrastructure for the future installation of electric vehicle chargers in one- and two-family homes.
- Require whole building metering for new buildings greater than 25,000 square feet.
- Allow source energy as a metric, instead of energy cost, for buildings choosing to comply with energy modeling.
- Require additional thermal envelope performance requirements for buildings choosing to comply with energy modeling.

The 2020 NYC Energy Conservation Code is one of the New York City Construction Codes being updated by the Department of Buildings as part of the ongoing Code Revision Cycle. The Department will be introducing updates to the balance of our New York City Construction Codes later this year.

State Comptroller: New York City Projecting Surplus of \$2.7 Billion in Current Fiscal Year

New York City projects a surplus of more than \$2.7 billion for fiscal year (FY) 2020, up from \$550 million in November 2019, which it plans to transfer to FY 2021 to help balance that year's budget, according to a report released by State Comptroller Thomas DiNapoli.

“New York City's economy has been strong in recent years, generating resources to expand municipal services and to close projected budget gaps,” Comptroller DiNapoli said. “The out-year budget gaps are relatively small, but there is still a risk of an economic downturn. Also, the proposed executive state budget could increase costs for the city. The city should continue to boost reserves and look for new ways to save.”

According to the Comptroller, the city's financial plan does not reflect the impact of the Governor's proposed budget for state fiscal year 2021, which begins April 1. The executive budget includes a number of proposals that, if enacted, would adversely impact the city's budget. The city estimates that the most

concerning of these proposals would have increased its Medicaid costs significantly had they been in effect last year, although the impact on next year's budget is not yet known.

In January, city officials released a four-year financial plan for FY 2020 through FY 2024. The surplus for FY 2020 results mainly from an increase in the city's revenue forecast since the start of the fiscal year (\$1.2 billion) and a reduction in reserves (\$1.1 billion) that are no longer needed in the current fiscal year given the strength of tax collections. The city also anticipates savings of \$400 million from prior years' expenses.

The citywide savings program is now expected to generate \$1.2 billion during FY 2020 and FY 2021. Comptroller DiNapoli noted that savings at city agencies have been more than offset by new needs. Most of these are associated with state-mandated criminal justice reforms and education.

Changes since the beginning of the fiscal year in July have reduced the out-year budget gaps to \$2.4 billion in FY 2022 and \$2.7 billion in each of FY 2023 and FY 2024. The gaps average 3.5 percent of city fund revenues.

Comptroller DiNapoli noted that the City's relatively conservative revenue forecasts reflect the concern of an economic slowdown during the financial plan period. The report finds that though revenues could be marginally higher than the city's forecast based on trends in the current fiscal year, the benefit may be offset by the potential for higher spending for overtime and education.

Briefs

State Supreme Court Rules against Two Bridges Project

This week a state Supreme Court justice delivered a victory for opponents of plans to build four new towers known as Two Bridges to the Lower East Side waterfront. Activists and residents under the name Lower East Side Organized Neighbors had filed a lawsuit against Two Bridges last March. They cited that the project should be put through a traditional public review process. Mayor Bill de Blasio's administration had previously stated that such a process was unnecessary.

Judge Arthur Engoron sided with the activists and residents that more oversight was needed. Engoron disputed the city's argument that since the projects does not require a special permit that they would then not be subject to the lengthy land use approval process. This gives the Council significant sway over development plans. This follows a decision from Engoron in August 2019 in which he sided with Manhattan Borough President Gale Brewer and the City Council against the project.

JDS Development Group and Starrett Development are behind the development which would bring 2,775 apartments, of which 700 would be income-restricted to the area. One of the towers is slated to be over 1,000 feet in height. The developers have committed \$12.5 million for repairs to a nearby New York City Housing Authority complex, \$40 million in accessibility upgrades to a local subway station and \$15 million in public park improvements.

Local elected officials and several community groups have opposed the towers, arguing the influx of market-rate housing will displace existing residents and exacerbate gentrification in the area.

Mayor de Blasio And Commissioner Salas Announce First Paid Sick Leave Settlement With Chipotle

Mayor Bill de Blasio and Department of Consumer and Worker Protection (DCWP) Commissioner Lorelei Salas this week announced a settlement agreement with Chipotle Mexican Grill, Inc. for illegally firing an employee at the East 14th Street location in Manhattan for using sick leave. In addition to retaliating against the worker for exercising her right to sick leave, DCWP's investigation found that she was not paid for leave that she used to take care of her family and for her own illness.

DCWP's settlement agreement requires Chipotle to immediately reinstate the worker at her previous pay rate, pay wages for the three times she used sick leave, pay \$2,500 in restitution for being illegally fired, and remove any disciplinary records related to her use of sick leave.

DCWP's larger investigation into Chipotle's workplace practices across New York City, including the location in this settlement, remains ongoing. In September 2019, DCWP also announced a lawsuit against five Chipotle locations in Brooklyn for widespread violations of the City's Fair Workweek Law, which requires predictable schedules in the fast food and retail industries and a pathway to stable, full-time employment for fast food workers. DCWP also found that the locations had an illegal sick leave policy. The case is pending at the City's Office of Administrative Trials and Hearings (OATH).

Mayor de Blasio Signs Dangerous Vehicle Abatement Bill

New law will allow City to seize and impound certain vehicles involved in reckless driving unless owners complete a driver accountability program

Mayor de Blasio this week signed the Dangerous Vehicle Abatement bill into law. The new law allows the City to seize and impound vehicles with 15 or more school speed camera violations or 5 or more red light camera violations during a 12-month period unless the registered owner or operator completes a driver accountability course. The legislation, Intro 971, was sponsored by Council Member Brad Lander.

Officials estimate that the new law will affect about 3,000 to 6,000 vehicles, or less than 1 percent of the nearly 2 million vehicles registered in the city. The law will take effect on February 26, 2021 and apply to red light camera and school speed camera violations incurred after October 26, 2020. The program will run for 3 years, at which point the Mayor and Council will decide to renew or modify this effort.

Yeshiva Enrollment Up Across City Catholic Schools Enrollment Down

A recent study has shown that enrollment in Jewish yeshivas has risen significantly in the last two decades. According to the Manhattan Institute, yeshiva enrollment is up 46% since the 2000-2001 school year. That year there were 76,538 students enrolled. In 2018-2019 there were 111,970 students enrolled in yeshivas.

Catholic schools have seen the opposite trend in the last two decades. In the 2000-2001 school year 148,658 students were in Catholic schools. In 2018-2019 that number dropped to 77,025, a decrease of 48%.

During the same time frame, the city’s public schools have seen a 11% drop in enrollment, down from 1,066,516 to 948,047. This is attributed in part to the growth in city charter schools which had an enrollment of 1,821 in 2001 and is now at 117,176.

NYC Campaign Finance Board Issues Public Matching Funds in the Queens Borough President Special Election

The NYC Campaign Finance Board (CFB) issued public matching funds payments totaling \$923,422 to three candidates running for Queens Borough President: Costa Constantinides, Elizabeth Crowley and Donovan Richards.

The Queens Borough President special election is set to occur on Tuesday, March 24. Early voting for this election begins on Saturday, March 14, and continues through Sunday, March 22.

To qualify for public matching funds, candidates must meet a two-part fundraising threshold: 100 contributions from Queens residents and \$44,614 in funds raised. Only the match-eligible portion of any contribution may count towards the second threshold. This week’s payment takes into account all campaign finance activity through February 17, 2020. This is the second public funds payment for the special election. To date, the CFB has distributed \$1,897,914 to candidates in this race.

PUBLIC MATCHING FUNDS – QUEENS BOROUGH PRESIDENT

Candidate	Office	Jan. 30 Payment	Feb. 26 Payment	Total Received
Costa Constantinides	Queens Borough President	\$476,697	\$107,382	\$584,079
Elizabeth Crowley	Queens Borough President	\$497,795	\$369,407	\$867,202
Donovan Richards	Queens Borough President	--	\$446,633	\$446,633
Total	Queens Borough President	\$974,492	\$923,422	\$1,897,914

Comptroller Stringer Announces ThriveNYC on Spending Watch List

New York City Comptroller Scott Stringer this week announced that ThriveNYC was on the agency's watch list. This yearly list names the city agencies that raise the most budgetary concerns for the Comptroller's Office.

Comptroller Stringer said the list "sends a strong signal from our office." The Comptroller raised concerns about the program's inability to provide accurate and timely accounting for spending.

Coming Up

New York State

The Legislature is in session Monday March 2nd through Wednesday March 4th

Tuesday March 3rd

To solicit views of interested parties in the New York Voting Rights Act

Senate Standing Committee on Elections

Van Buren Hearing Room A, Legislative Office Building, 2nd Floor, Albany, 10 a.m.

New York City

Monday March 2nd

Committee on Finance, Council Chambers – City Hall, 10 a.m.

Preliminary Budget Hearing

Subcommittee on Capital Budget, Council Chambers – City Hall, 10 a.m.

Preliminary Budget Hearing

Tuesday March 3rd

Committee on Fire and Emergency Management, Council Chambers – City Hall, 10 a.m.

Preliminary Budget Hearing

Committee on Higher Education, Committee Room – City Hall, 10 a.m.

Preliminary Budget Hearing

Committee on Land Use, Committee Room – City Hall, 11 a.m.

Committee on Land Use, Council Chambers – City Hall, 1 p.m.

Preliminary Budget Hearing

Committee on Technology, Council Chambers – City Hall, 3 p.m.
Preliminary Budget Hearing

Wednesday March 4th

Committee on Environmental Protection, Committee Room – City Hall, 10 a.m.
Preliminary Budget Hearing

Committee on Cultural Affairs, Libraries and International Intergroup Relations, Council Chambers – City Hall, 10 a.m.
Preliminary Budget Hearing

Committee on Public Safety, Council Chambers – City Hall, 1 p.m.
Preliminary Budget Hearing

Committee on Sanitation and Solid Waste Management, Council Chambers – City Hall, 1 p.m.
Preliminary Budget Hearing

Thursday March 5th

Committee on Housing and Buildings, Council Chambers – City Hall, 10 a.m.
Preliminary Budget Hearing

Committee on Veterans, Committee Room – City Hall, 2 p.m.
Preliminary Budget Hearing

Friday March 6th

Committee on Aging, Council Chambers – City Hall, 10 a.m.
Preliminary Budget Hearing

Committee on Consumer Affairs and Business Licensing, Committee Room–City Hall, 12 p.m.
Preliminary Budget Hearing

Committee on Small Business Council Chambers – City Hall, 2 p.m.
Preliminary Budget Hearing

Committee on Immigration, Committee Room – City Hall, 3:30 p.m.
Preliminary Budget Hearing

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