



# This Week in New York

Covering New York State and City Government

A Publication of Pitta Bishop & Del Giorno LLC

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## *In the News – New York State*

### **Governor Cuomo Calls on Congress to Rescind DSH Payment Cuts and Reject Graham-Cassidy Health Care Bill**

Governor Andrew Cuomo this week called on Congress to immediately rescind the federal government's cuts in Medicaid Disproportionate Share Hospital (DSH) payments that will go into effect on October 1st.

According to the Governor, \$2.6 billion in DSH payments that reimburse hospitals through the Medicaid program for uncompensated health care costs are in jeopardy if Congress does not act.

At the same time, Governor Cuomo is calling on New York's Congressional Delegation to fight the latest attempt to repeal the Affordable Care Act—the Graham-Cassidy Senate health care bill. The Department of Health projects that the measure would cut \$18.9 billion annually from New York's health care system by 2026.

"The federal government is still trying to decimate our health care system by targeting the quality of care low income Americans are able to receive," Governor Cuomo said. "Health care is not a privilege or something for those we have the means to afford care—it is a fundamental right. In New York, we are standing up and calling on Congress to immediately rescind impending hospital cuts that will devastate our public and safety hospitals before they take effect on October 1st and reject these last minute, dangerous attempts to repeal the ACA through the Graham-Cassidy bill."



New York will be hit with the largest DSH cut in the nation and also faces disproportionately higher cuts. The \$2.6 billion cut to New York State by 2025 is significantly higher than other states, including California (\$1.2 billion), New Jersey (\$1.2 billion), and Texas (\$1 billion).

These cuts will impact all 219 hospitals across New York State, particularly public hospitals and safety net institutions which deliver the bulk of the uncompensated care.

Governor Cuomo also called on Congress to stop the Graham-Cassidy bill, which he asserts uses block grants and per capita spending caps to cut Medicaid funding for New York. Graham-Cassidy will cost New York \$18.9 billion annually by 2026 according to the Center on Budget and Policy Priorities. The Administration asserts the legislation:

- Jeopardizes 1.2 million health care jobs in New York State.
- Defunds Planned Parenthood
- Allows states to opt out of the law's "essential health benefits," meaning there will no longer be a prohibition on charging higher premiums to people with preexisting medical conditions.
- Eliminates the employer and individual mandate
- Enables insurance companies to sell bare-bones plans

## *In the News – New York City*

### **Support Swells for IBEW Local 3’s Battle with Charter Communications**

#### *Governor Cuomo and Mayor de Blasio pledge support of Local 3 against Charter/Spectrum cable*

Governor Andrew Cuomo and Mayor Bill de Blasio this week joined thousands of New York’s organized laborers to rally in support of the striking members of IBEW Local 3.

In Brooklyn’s Cadman Plaza Park, the leaders called out the Charter leadership, asserting “we are going to demand respect for the skills and experience of the workforce. And we are going to demand fairness.” IBEW Local 3 members have been on strike for six months.

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“...to the Charter Corporation: I want them to hear me and I want them to hear me well. They made certain representations when they came into this state. They said that if we allowed them in this state, they would improve the quality of service to customers. They said they would invest in technology. They said they would build out the broadband system. Last week, we fined them \$13 million for being late on their buildout. And I want to know how they’re going to improve customer service without the workforce that knows how to provide customer service,” Governor Cuomo said. “I am going to hold them to every letter and the spirit of that document and if they don't get their act



together and fulfil that agreement, they're going to be out of the State of New York. I want Charter to understand this. This is not a one day affair. This is not the end. Today is the beginning. And what's happening here today is the labor movement coming together in a way they haven't come together in decades.”



Representing 1800 employees of Charter Communications/Spectrum, Local 3 was forced to strike when Charter refused to negotiate a new contract when it took over. The Local 3 members -- formerly employed by Time Warner Cable (TWC) before the purchase by Charter -- have been working under an expired agreement. According to Local 3, both TWC and Charter have refused to bargain with Local 3 for over 2 years. In addition, Local 3 asserts:

- CHARTER/SPECTRUM promised customer's internet speeds knowing their equipment was not capable of delivering
- CHARTER/SPECTRUM is forcing technicians to install refurbished equipment not capable of maintaining internet speeds and is disciplining their technicians over repeat service calls to customers over unobtainable Wi-Fi internet speeds.
- CHARTER/SPECTRUM is not providing proper training and promotions to their technicians.
- CHARTER/SPECTRUM are using subcontractors from other states in violation of the New York City Franchise Agreement.
- CHARTER/SPECTRUM proposes to reduce medical benefits for their technicians.

Both State and local agencies have been reviewing Charters' entry into New York and have filed lawsuits, started formal investigations, and assessed fines as a result.

Earlier this year, Attorney General Eric Schneiderman filed a lawsuit against Charter Communications Inc. and its subsidiary Spectrum Management Holdings, LLC, for allegedly "conducting a deliberate scheme to defraud and mislead New Yorkers by promising internet service that they knew they could not deliver." In June, the City Department of Information Technology and Telecommunications launched an audit into charges Charter Communications is breaking its franchise agreement by using outside vendors during the strike. Also, as noted by Governor Cuomo, the State Public Service Commission fined Charter \$13 million for missing its broadband build out requirements.

“Brothers and sisters, I want to say to you on behalf of 8.5 million New Yorkers – New York City is a union town,” Mayor de Blasio said. “We do not accept a greedy corporation trying to undercut the most basic rights of working people. We do not accept it in New York City. You see these signs out here that say ‘elimination of the middle class’? That’s what Charter Spectrum is doing. Taking away the chance for good working people to make it to the middle class and stay there. We will not accept that in New York City...”



## **Department of Consumer Affairs' Office of Labor Policy & Standards Releases Report and Survey Results on the State of Workers' Rights in New York City**

The Department of Consumer Affairs (DCA) Commissioner Lorelei Salas this week released “The State of Workers’ Rights in New York City,” which details emerging gaps in labor protections and offers policy solutions to these growing concerns.

The State of Workers’ Rights in New York City” summarizes the testimony of 110 workers given during a public hearing in April 2017 that was convened by DCA, in collaboration with the New York City Commission on Human Rights and the Mayor’s Office of Immigrant Affairs (MOIA). Workers detailed challenges and concerns facing immigrant, paid care, and contingent workers. According to DCA, testimony showed that workplace violations impact a diverse range of industries, showing that wage theft, harassment, and discrimination are not limited to low-wage industries. These abuses also but pose threats in traditionally higher-paying jobs, including writers and academics.

Accompanying the report, “Working in NYC: Results from the 2017 Empire State Poll” is a joint collaboration between OLPS and the Worker Institute at Cornell’s ILR School to survey New Yorkers on work force issues. Issues surveyed include inequality, working conditions, and the role of city and local government in protecting immigrants and defending worker rights.

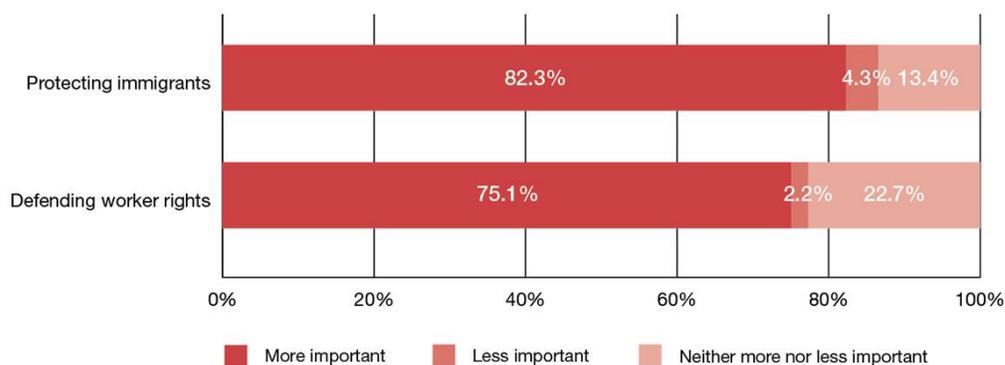
“Through innovative legislation and proactive enforcement, this administration has led the nation in the fight for stronger labor protections for vulnerable workers,” said DCA Commissioner Lorelei Salas. “This report provides a worker-centered look into the everyday challenges plaguing New York City workers, and offers informative solutions for filling the gap in workers’ rights and protections left by the federal government. DCA is committed to making sure that all New Yorkers are protected by workplace laws including minimum wage, overtime, and paid sick leave to ensure that they are being paid for their hard work and are able to achieve financial stability.”

Findings of the testimony include:

- ***Immigrant workers face exceptional challenges in asserting their rights under the law.***  
Though most workplace laws apply regardless of a worker’s legal status, workers who are insecure about their status are naturally more hesitant to make demands of their employer or reach out to the government or courts for assistance.
  
- ***Contingent workers suffer from irregular employment and face unique obstacles in holding employers accountable.***  
In the 2017 Empire State Poll 12.6 percent of working New Yorkers reported that their work hours vary week-to-week and are outside of their control. Many freelance, independent contractors, retail, and food service workers spoke about unpredictable schedules, abrupt shifts in income, and the difficulties they face in holding their employers accountable for unpaid wages and working conditions.
  
- ***Wage theft is pervasive and wage and hour law enforcement is inadequate.***  
Models, writers, adjunct professors, and other white-collar workers testified that wage theft is not limited to low-wage industries.

Workers and advocates asserted that immigrant New Yorkers are more fearful than ever following recent actions in Washington. During their testimony, immigrant workers described how employers in a range of industries take advantage of their immigration status to withhold pay and commit other workplace violations. “Working in NYC: Results from the 2017 Empire State Poll” indicates an overwhelming majority of New York City residents want the City to be more protective of workers (75 percent) and immigrants (82 percent) following November’s election.

**NYC residents’ view on the role of local government following the 2016 election**





## **New Amazon Office in NYC to Employ 2,000**

### ***Project Will Create High-Paying Positions in Finance, Sales, Marketing, and Information Technology***

Amazon will expand its presence in New York City with the addition of a 359,000 square-foot administrative office at 5 Manhattan West. This latest investment and expansion will create 2,000 jobs.

According to Governor Andrew Cuomo, to encourage Amazon's expansion in New York State, the company was offered up to \$20 million in performance-based taxed credits through Empire State Development's Excelsior Jobs Program. Amazon will invest \$55 million to outfit the 359,000 square-foot office space at 5 Manhattan West using energy-efficient standards. The expansion will create 2,000 new jobs in finance, sales, marketing, and information technology that will earn an average of \$100,000 annually. Amazon will also retain over 1,800 jobs in New York State.

Since 2012, Amazon has invested \$9 million into an innovative Fashion Photography and Videography Studio in Brooklyn, creating over 50 direct jobs and supporting more than 300 job. This investment was aided by \$2 million in performance-based tax credits offered through the Excelsior Jobs Program. In 2014, Amazon established a 350,000 square foot administrative office at 7 West 34th Street, creating over 500 jobs with \$5 million in tax credits offered Excelsior Jobs Program

On September 6, Governor Cuomo announced a new \$100 million Amazon fulfillment center in the Global Logistics Park on the West Shore of Staten Island, which will support the creation of 2,250 new, full-time jobs. As Amazon's first fulfillment center in New York State, the 855,000 square-foot facility will offer opportunities for employees to engage with advanced robotics in a highly tech-enabled workplace.

## ***Briefs***

### **New York Unions Push Back on Proposed Workers Compensation Rules**

The New York State Workers' Compensation Board is receiving pushback from labor unions on proposed workers compensation regulations to revamp the current loss of use and permanency guidelines. Union leaders content the proposed regulations will significantly reduce benefits for injured workers in New York.

The impairment guidelines, published in the *State Register* on September 6<sup>th</sup>, are required by workers' compensation reform legislation included in the 2017-2018 New York State budget.

“Earlier this year, the Governor and the Legislature directed the Workers’ Compensation Board to update its schedule loss of use impairment guidelines to reflect advances in modern medicine that enhance healing and result in better outcomes,” Mario Cilento, president of the New York State AFL-CIO, said, according to published. “Instead, the Board took it upon itself to totally rewrite the guidelines and propose other regulatory changes with an eye toward slashing benefits. If enacted, this package would drastically reduce awards for workers that lose the use of a body part and introduce changes to the process that would lead to ever increasing uncertainty, delay, and litigation for injured workers. This proposal runs counter to the intent of the legislation.”

The draft regulations are subject to a 45 day comment period. When finalized the regulations will be effective January 1, 2018.

Attached, for your reference, is a copy of the draft regulations, and a legislator letter from the New York Workers’ Compensation Alliance. Comments on the regulations are due by October 23, 2017 and may be directed to Heather MacMaster, Workers’ Compensation Board, 328 State Street, Schenectady, NY 12305, (518) 486-9564, email: [regulations@wcb.ny.gov](mailto:regulations@wcb.ny.gov).

## **Enough is Enough**

Governor Andrew Cuomo this week announced the findings of a comprehensive statewide review of compliance under the "Enough is Enough" law at 244 higher-education institutions across the state.

The statewide review found that, while many colleges and universities have taken steps to comply with the "Enough is Enough" requirements, many institutions have not taken the necessary steps to achieve full compliance. To follow is a breakdown of the findings.

- 95 schools (38.9 percent) were found to be compliant with the requirements
- 29 institutions (11.9 percent) were found to be non-compliant, meaning their policies were deficient on the majority of elements.
- 120 (49.2 percent) schools were found to be significantly compliant, but presented concerns that must be addressed to achieve compliance with the requirements. Those concerns fall into the categories of training consistency; lack of adequate services available to students; verifications of completion of student training; accessibility and availability of information; definition of confidentiality; missing, inconsistent, or contradictory information; and noncompliant resolution procedures.

Institutions not fully in compliance will be notified by the New York State Office of Campus Safety. These schools will be required to submit an action plan to achieve full compliance within 30 days, and to submit documentation of full compliance within 60 days of such notification.

## **Governor Cuomo Announces Bidding for \$89 Million to Re-Purpose Facilities to House Youth Under *Raise the Age***

Governor Andrew Cuomo this week announced that bidding has started for \$89 million in construction projects at four facilities to expand capacity and repurpose buildings to serve 16- and 17-year-olds under his Raise the Age legislation. The new law changes the way 16- and 17-year-olds are processed in the criminal and youth justice systems and changes the placement they may receive. The law becomes effective for 16-year-olds on October 1, 2018, and for 17-year-olds one year later.

The New York State Office of Children and Family Services, which operates the state's juvenile justice facilities, and the State Department of Corrections and Community Supervision, which will now operate adolescent offender facilities, will require more beds to accommodate the additional youth placed in their custody. In order to do so, the agencies will re-purpose locations throughout the State.

The Office of General Services are soliciting bids for the following projects:

- Monroe County - \$29 million in to expand the Industry Residential Center to expand capacity from 50 to 130 youths.
- Cayuga County - \$12 million to repurpose the Harriett Tubman Residential Center into a limited secure residential center that will house 25 youth.

Bids will be solicited later this year for the following projects:

- Livingston County - \$ 25 million to update the Groveland Annex
- Essex County - \$23 million to update Adirondack Correctional Facility

The Department will also utilize the Hudson Correctional Facility in Columbia County which was designated a youth facility by the Governor's Executive Order 150 in 2015. It will be transitioned to an adolescent offender facility when RTA is effective in October 2018.

## **Mayor de Blasio Signs Bill Establishing "Nightlife Mayor"**

Mayor Bill de Blasio has signed legislation, Introduction 1688, to create the Office of Nightlife.

In June 2017, Mayor de Blasio announced that Mayor's Office of Media & Entertainment (MOME) would expand to include the first ever Office of Nightlife. Serving under the Commissioner of MOME, the Senior Executive Director of the Office of Nightlife (known colloquially as the 'Nightlife Mayor') will help establish this Office, implement recommendations made by a Nightlife Taskforce that will be convened to address challenges and opportunities in NYC's nightlife industry, which includes restaurants, bars and music venues, and manage day to day operations.

This legislation also establishes a Nightlife Advisory Board, which will consist of 12 members appointed by the Mayor and the City Council Speaker. MOME has begun interviewing candidates for the Senior Executive Director of Nightlife position, which is listed on NYC Jobs.

The city's nightlife industry supports 300,000 jobs and generating billions of dollars in economic benefits.

## Hotel Trades Council Urges Boycott of Albany Hilton



Union leaders are urging a boycott of the Hilton Albany hotel over a labor contract dispute with its Long Island-based owners.

Members of the Hotel Trades Council (HTC) began picketing outside the Lodge Street hotel on Thursday to protest contract demands being made by United Capital Corp. of Great Neck, L.I. According to union officials, United Capital Corp is calling for elimination of the pension plan, cuts in bereavement days and vacation time, and a reduction in minimum guaranteed pay for workers called in on a nonscheduled day.

HTC represents 140 employees at the Hilton, who work as room attendants, bell staff, engineers, front desk staff, bartenders, cooks and food service workers. The labor contract expired in April.

## Coming Up

### New York State

#### Tuesday September 26<sup>th</sup>

*To investigate how best to protect consumers, such as seniors and internet users, from the theft of their personal information*

Senate Standing Committee on Consumer Protection, Van Buren Hearing Room A, Legislative Office Building, 2<sup>nd</sup> Floor, Albany, 11:00 a.m.

#### *The New York State Workers' Compensation Permanency Impairment Guidelines*

Assembly Standing Committee on Labor, Roosevelt Hearing Room C, Legislative Office Building, 2<sup>nd</sup> Floor, Albany, 1 p.m.

#### Thursday September 28<sup>th</sup>

##### *Public Hearing: Adult Care Facilities*

Joint – Assembly Standing Committees on Health, Social Services, and Aging, Hearing Room, Senator John H. Hughes State Office Building, 1<sup>st</sup> Floor, 222 East Washington Street, Syracuse, 11 a.m.

## *New York City*

### *Monday September 25<sup>th</sup>*

*Subcommittee on Zoning and Franchises*, Committee Room, 16<sup>th</sup> Floor – 250 Broadway, 9:30 a.m.

*Subcommittee on Planning, Dispositions and Concession*, Committee Room, 16<sup>th</sup> Floor – 250 Broadway, 1 p.m.

*Committee on Environmental Protection*, Council Chambers – City Hall, 1 p.m.

*Committee on Transportation*, Committee Room – City Hall, 1 p.m.

### *Tuesday September 26<sup>th</sup>*

*Committee on Contracts*, Committee Room, 14<sup>th</sup> Floor – 250 Broadway, 9:30 a.m.

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

*Committee on Finance*, Committee Room, 16<sup>th</sup> Floor – 250 Broadway, 10 a.m.

*Committee on Land Use*, Committee Room – City Hall, 1 p.m.

*Committee on Fire and Criminal Justice Services*, Council Chambers – City Hall, 1 p.m.

*Committee on Recovery and Resiliency*, Committee Room – City Hall, 1 p.m.

### *Wednesday September 27<sup>th</sup>*

*Committee on Finance*, Committee Room – City Hall, 10 a.m.

*City Council State Meeting*, Council Chambers – City Hall, 1 p.m.

### *Thursday September 28<sup>th</sup>*

*Committee on General Welfare*, Council Chambers – City Hall, 10 a.m.

*Committee on Youth Services*, Council Chambers – City Hall, 10 a.m.

*Committee on Governmental Operations*, Committee Room, 14<sup>th</sup> Floor – 250 Broadway, 10 a.m.

*Committee on Civil Rights*, Committee Room, 16<sup>th</sup> Floor – 250 Broadway, 1 p.m.

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