

NYCMS
News Capsules
March 26, 2021

The New York State Budget Debate Is Coming Down to the Finish Line: The Assembly and Senate have proposed their one-house budgets, and have recommended rejecting most of the proposals that we have been lobbying against. However, there's no guarantee that the two houses' recommendations will be carried through during the difficult Budget negotiations, which are due to be completed April 1. Please send legislators instant messages:

Pending Alert: Pharmacists' Scope of Practice Expansion — There have been three problematic provisions that would widen pharmacists' scope of practice, and would have the effect of undermining the physician-led "patient-centered medical home" concept. The Assembly's one-house budget proposal recommended rejecting all three of these provisions, and the Senate's, rejecting two of the three. **Keep pushing — please send your legislators an [INSTANT LETTER](#) requesting that none of these scope expansion provisions are included in the final budget.**

Pending Alert: Excess Insurance 50% Cost-Share Increase to Physicians — Both the Assembly's and the Senate's one-house budget proposals recommended rejecting the \$51 million cut to the Excess Medical Malpractice Insurance program, which would mean a 50% physician cost-share imposition. **Keep pushing — please send legislators an [INSTANT LETTER](#) urging them to prevent this \$51 million cut from being included in the final Budget.**

MSSNY Working to Secure Telehealth Expansion in FY 2022 Budget, While Preserving Patients' Access to Their Physicians: In his initial budget proposal, Governor Andrew Cuomo presented a series of provisions for telehealth, but there is much debate about this crucial topic. The Assembly, in its one-house budget, rejected all of the Governor's proposals except for a provision expanding the locations where telehealth services can be provided. The Senate accepted his proposals but added language supported by MSSNY, requiring payment for telehealth services on par with in-person visits.

MSSNY wants the final FY 2022 budget to include a comprehensive set of telehealth policies, including two particularly important provisions: First of all, “payment parity” should be required for services delivered via telehealth. (This requirement is also in a recently introduced, separate bill, **S.5505 (Rivera)/A.6256 (Gottfried)**.) Second, insurers should not be permitted to bar *local* in-network doctors from providing their own patients with telehealth services. The Governor had wanted to set up an interstate physician licensure compact, whereby insurers could set up national-level networks for telehealth; but the problem, as MSSNY points out, is that insurers might then compel patients to use only those national networks for tele-services. MSSNY is pushing to remove the Interstate Compact provision from the final budget, and to add a provision whereby insurers will not be permitted to refuse to cover tele-services by patients’ own local physicians. Please send an [**INSTANT MESSAGE**](#).

New York Health Act Re-Introduced: Legislation to create a single-payer system in New York (**A.6058, Gottfried/S.5474, Rivera**) has been reintroduced in the New York State Assembly and Senate. The bill has 79 co-sponsors in the Assembly and 33 co-sponsors in the Senate. Previous iterations of this bill passed the Assembly in 2015, 2016, 2017 and 2018.

MSSNY has long supported a multi-payer system to achieve universal coverage, and has opposed a single-payer system. However, MSSNY recognizes that physicians have many perspectives on this issue, and looks forward to continued open dialogue. The “real world” impact of the single-payer proposal has to be carefully evaluated; patients must continue to have access to needed care from the physicians of their choice.

The legislation’s authors have meaningfully improved the language of the proposal, based on comments from physician groups including MSSNY and the New York County Medical Society. The Society’s Single Payer Task Force has had numerous meetings with Assembly Gottfried and Senator Rivera, noting concerns, especially about using grossly inadequate Medicaid rates as the model for payment. In this year’s version of the legislation, “usual and customary rates” maintained by Fair Health would be taken into consideration in the development of a payment schedule, as urged by the Society. The legislation has also been amended from previous versions to limit prior authorizations, and to provide a fairer process for collective negotiation.

After the New York State budget has been enacted there will likely be extensive discussions on this proposal, and we will continue to provide updates to members and express concerns to the legislature.

Latest on the Medicare Sequester: Late Thursday afternoon, the Senate voted 90 – 2 to pass an agreement reached by Leaders Schumer and McConnell to extend the 2 percent Medicare sequester moratorium that expires on April 1. The bipartisan legislation would provide a nine-month extension of the moratorium, through December 31. It also contains some technical corrections related to rural health clinics and disproportionate share hospitals. The House of Representatives passed different legislation earlier that would both extend the moratorium through the end of the pandemic and eliminate an additional 4 percent Medicare sequester scheduled to take effect on January 1, which was required by PayGo rules to offset part of the cost of passing the American Rescue Plan COVID-19/stimulus package. Consequently, the House will need to pass the Senate language when it returns from its Easter recess in mid-April, but the House *is* expected to vote favorably, and the Centers for Medicare & Medicaid Services is expected to hold off on processing April claims until then to avoid making reduced payments. Physician and other stakeholder groups affected by the upcoming 4% sequester scheduled for January 1 expect legislation to be considered later in the year to waive those cuts.

Concerns about Step Therapy Reforms: Recently, MSSNY and several patient advocacy organizations alerted New York’s Department of Financial Services (DFS) to a serious problem: Some New York health plans may not be complying with the state’s step therapy reform law, enacted in 2016.

Step therapy, also known as “fail first,” is a policy that insurers use to control costs. Patients are required to try and fail on one or more drugs prescribed by their physicians, before the insurer will cover the originally prescribed treatment. Step therapy protocols can lead to serious health consequences, and can also increase patients’ costs. MSSNY worked with many groups to pass the 2016 law, whereby, based on information from the patient’s physician, a health plan must (under certain circumstances, listed in the law) grant a request to override its step therapy requirement. For more information, see: [Step Therapy New Law \(mssny.org\)](https://mssny.org). Aimed Alliance, an advocacy group, has found in a recent survey that some patients are still required to “fail first” on certain medications for serious health

conditions, despite the protections under New York’s law. **If you know of situations where health plans have not followed the law, or if you know of other physicians who have encountered this problem, please share details with MSSNY. Contact zcary@mssny.org**

Victory in Court on Vaccination Exemptions: In a huge victory for physicians and public health, the New York State Supreme Court, Appellate Division, Third Judicial Department, has affirmed the dismissal of the challenge to New York State’s law eliminating non–medical exemptions for vaccinations. The AMA, MSSNY and the American Academy of Pediatrics had submitted an *amicus brief* in support of New York State and the law, asserting that eliminating these exemptions is in the best interest of public health. In 2019, MSSNY had led the fight for allowing only medical exemptions. This dismissal is a huge victory for public health.

Important Update to UHC Optum Pay Fee Controversy: Discussions with United Healthcare with regard to their charging of fees in their Optum Pay Program have yielded the following positive results. **The FREE version of Optum Pay has been restored.** This allows you to access 13 months of claims history, and to download Remittances in appropriate formats. UHC will be waiving all fees incurred by providers who were enrolled in the “paid” version, **but did not wish to be enrolled, through the end of March, 2021. Note, however: You must cancel and actively opt out of the paid” program.** Additional information on these changes, including how to cancel enrollment, can be found [HERE](#).

Check out Webinars on the Use of Prescription Drug Monitoring Programs: Overdose deaths in the United States continue to climb during the ongoing COVID–19 pandemic. Recent provisional data from the CDC show that over 81,000 drug overdose deaths occurred across the country in the 12 months ending in May 2020, higher than any previously recorded 12–month period. The CDC recommends that clinicians co–prescribe naloxone to patients with high morphine milligram equivalents, and to patients receiving opioids and benzodiazepines. Prescribers such as physicians, nurse practitioners, and physician assistants can help by optimizing their use of prescription drug monitoring programs (PDMP) in clinical care.

Starting **Tuesday, March 30, 2021**, from 1:00 to 2:00 p.m., the NYC Department of Health and Mental Hygiene, in partnership with Montefiore Medical Center and NYC Health + Hospitals, will host **a series of eight webinars funded by the organization OD2A (Overdose Data to Action)**, with practical and current guidance for health care providers to optimize use of PDMP data in clinical care. CME credits will be offered with each webinar. Click [HERE](#) to register for the first webinar in the Optimizing Provider Use of Prescription Monitoring Programs series.

Tuesday, March 30, 2021, 7:30 to 9:00 p.m.: “*Beyond Tuskegee: COVID-19 Vaccine Confidence and Equity*,” a Community Health Forum. Register at: [Webinar Registration - Zoom](#). Speakers: Uché Blackstock, MD, Founder and CEO, Advancing Health Equity; Torian Easterling, MD, MPH, First Deputy Commissioner and Chief Equity Officer, NYC DOHMH; and Rachel Villanueva, MD, President Elect, National Medical Association. Moderators: Camille Clare, MD, MPH, Professor and Chair, OB/GYN, SUNY Downstate, Medicine and Public Health; and Monica Sweeney, MD, MPH, Public Health Consultant, Professor Emeritus SUNY, Downstate School of Public Health. **See the flyer attached.**

Wednesday, March 31, 2021, 6:00 p.m. to 7:00 p.m.: Nassau County Medical Society invites you to “*Women on the Frontlines: Stronger Together*.” In honor of Women’s History Month, Nassau County Medical Society is celebrating women who have been leaders on the frontline during the pandemic. Please register at: [Meeting Registration - Zoom](#). For further details or registration assistance, please email information@nassaucountymedicalsociety.org or call (516) 832–2300. Panelists include Doctor Susan Bailey, President, AMA, and Doctor Bonnie Litvack, President, MSSNY.

Wednesday, April 21, 2021, 5:00 p.m. to 6:00 p.m.: “*Functional Mitral Regurgitation in HFrEF Patients*.” Register for this virtual CME presentation, part of the New York–Presbyterian Heart Failure Education Series. Register at: [Webinar Registration - Zoom](#). For more information, see the flyer attached or email erg9060@nyp.org.

Thursday, April 22, 2021, 7:30 a.m.: “*Veterans Matters: Military Culture: Everything Physicians Need to Know about Veterans as *Patients*,*” from the Medical Society of the State of New York. **Click [HERE](#) to register for this live webinar; view the program flyer [HERE](#).** For more information, contact Jangmu Sherpa at jsherpa@mssny.org or call (518) 465–8085.

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**For our members who are celebrating,
Chag Pesach Sameach!**