COMING UP

“Ask HCA” Dine and Discuss Roadshow Sessions

June 20
Albany, N.Y.
3 to 5 p.m.

Wednesday, June 21
Westchester
11 a.m. to 1 p.m.

LHCSA “Hot Topics” Forum
June 22
New York, NY

Make Your Emergency Preparedness Plan CoP-Ready
June 28
Suffern, NY 10901

For more information, visit http://hca-nys.org/events-education/upcoming-events

State Legislative Crescendo 2017

With less than two weeks to go before the scheduled June 21 finale of the state legislative session, it is a time when legislators, the Governor, State Agencies and virtually every constituency moves into accelerated gear for the passage, amendment or reconsideration of hundreds – indeed, thousands – of legislative bills at play in this final crescendo to the 2017 session.

While HCA has succeeded in gaining the introduction of numerous, important bills for home care, MLTC and hospice this session, the end-of-session period creates a funnel greatly narrowing down the legislature’s process to a relatively select few of the many


Enforcement planning for the new federal home health emergency preparedness rule took a major step forward last week.

OMIG to Issue CHHA EPS Audit Reports

HCA’s Advocacy Makes Critical Change to Start Date of the Audit from May 1, 2012 to May 1, 2013

The state Department of Health (DOH) has posted to the Health Commerce System (HCS) a “Dear Provider Letter” to inform Certified Home Health Agencies (CHHA) that the state Office of the

See CRESCENDO p. 4

See EP p. 2

See AUDIT p. 3

INSIDE

State Legislative Crescendo 2017..........................................................1
OMIG to Issue CHHA EPS Audit Reports...........................................1
A Message from HCA Sponsor FBA of Syosset.................................3
Due Date Again Changed for FLSA Attestations; Now June 16.......5
IPRO Annual Conference Features Compelling Presentations, High Honors..6
Member Hiring Announcements.....................................................7
LHCSA Statistical Workgroup Meets..............................................8
HCA to Convene HR Committee – Membership Input Sought.........9

DOH Finalizes Uniform Billing Codes...............................................11
Executive Order 162 Guidelines Released.....................................11
Hospices Provider Preview Reports Now Available for Review........13
DOH to Soon Post 2017 Medicaid FFS Rates, Cost Report Software for LTHHCPs...13
HCA MLTC Forum Discusses Pressing Issues, New Initiatives........14
Updates from DOH Managed Care, VBP Meetings......................15
Full PHHPC Acts on Hospice and Home Care Applications..............17
HCA Submits Comments on OMIG NHTD Audit Protocols.............17
New eMedNY Managed Care Listing...........................................18
Resources.........................................................18
The federal government has posted its interpretive guidance (https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Downloads/Advanced-Copy-SOM-Appendix-Z-EP-IGs.pdf), a document to assist state surveillance efforts and enforcement and address potential penalties for noncompliance. This development moves the dial further toward fulfilling the implementation of these sprawling new emergency preparedness requirements by November 16, 2017.


The new emergency preparedness rules (again, effective November 16), carry the same weight as the Conditions of Participation (CoPs). In fact, they are part of the broader new home health CoP changes set to go into effect, but the U.S. Centers for Medicare and Medicaid Services has chosen an accelerated timetable for the emergency preparedness provisions, specifically, well before the other CoP changes take hold.

Our June 28 workshop with Barbara Citarella will assist agencies in: understanding the four major components of this regulation; planning for required continuity of operations (COOP); operationalizing policies and procedural requirements of the rule; communication; and conducting/testing a training program related to your emergency plans.

This is one program that you won’t want to miss, not only for your agency’s compliance with the rule but for the sake of ensuring a solid plan that protects your patients and operations in times of crisis.
The Situation Report: the Home Care Association of New York State

AUDIT from p. 1

Medicaid Inspector General (OMIG) will be issuing draft audit reports over the next two to three weeks.

OMIG will be pursuing recoupment of overpayments which cover Episodic Payment System (EPS) claims paid from May 1, 2013 through December 31, 2016. Originally, OMIG was planning on recouping CHHA EPS overpayments beginning on May 1, 2012 (the start of CHHA EPS) through December 31, 2015. In a meeting with OMIG officials, however, HCA contended that the audit start date should not begin until May 1, 2013, since DOH did not issue complete Partial Episode Payment billing guidelines until April 2013.

OMIG agreed with HCA and decided to change the start date of the audit to May 1, 2013. This delayed start date prompted OMIG to also change the close date of the audit, from December 31, 2015 to December 31, 2016. HCA’s advocacy on this audit time period is important, given that the total statewide amount of CHHA EPS Medicaid billing between May 1, 2012 through April 30, 2013 was approximately $452.4 million compared with just $151.3 million between January 1, 2016 through December 31, 2016. Because of this critical change, the overall $16.6 million in alleged payment errors should be reduced, since the new audit time period involves about $300 million less in statewide CHHA EPS.

The audit letters will initially go to about eight CHHA EPS overpayments beginning on May 1, 2012 (the start of CHHA EPS) through December 31, 2016. The audits will address Medicaid overpayments the state made under CHHA EPS due to: improper use of discharge code when a Medicaid recipient is transferred to a Managed Long-Term Care (MLTC) Plan; a CHHA provider paid for multiple episodic payments within 60 days; and improper use of discharge code when a Medicaid recipient subsequently obtains services from a different CHHA.

As mentioned in the February 13, 2017 edition of The Situation Report, the state Comptroller’s office had conducted an audit of CHHA EPS and found $16.6 million in payment errors, and referred its findings to the OMIG.

This was followed up with a February 8 DOH Dear Provider Letter (http://hca-nys.org/wp-content/uploads/2017/06/CHHA-Audit-Letter-_020817.pdf) that categorized the overpayments into three groups and summarized some of the EPS billing procedures, as well as a February Medicaid Update article (https://www.health.ny.gov/health_care/medicaid/program/update/2017/feb17_mu.pdf).

For more information, contact the HCA Policy staff.

Are You Compliance Ready for CDPAP?

Don’t Get Caught Out of Compliance!

Did you know that starting on July 1st, 2017, Wage Parity will be required for all CDPAP Cases??

Employees working for the Consumer Directed Personal Assistance Program, better known as CDPAP, will now be equivalent to Home Health Aides in terms of Wage Parity Compliance!

Do you know what is considered to be “compliant”?  

In order to be Wage Parity compliant, a Home Health Care Agency must provide its Aides with a “Bona Fide Benefit Plan”

What qualifies as a “Bona Fide Benefit Plan”?

FBA of Syosset is the leader in Wage Parity Benefits and Compliance. To find out how FBA can help you keep in compliance, call our Director of Sales, Stephen Squires, before July 1st at 516-289-9009.
meritorious bills before them. HCA will continue to seize every opportunity in the next ten days to leverage the bills we have put forth – e.g., financing, technology, quality, telehealth, care of special populations, and more. But because of the practical end-of-session limits, we will focus on those most apt to be in play and with the most significant consequences or timing for our field.

**HCA Physician-Homecare Partnership Bill**

HCA continues to press for enactment of our legislation to facilitate physician-homecare partnering for primary care, public health and medical management. Senator Hannon has introduced the bill (S.6345), DOH has responded favorably in our discussions, and providers (including home care, physicians and hospitals) are communicating their support. HCA’s main immediate focus is to garner Assembly support. This legislation is critically framed and timed to support home care’s role in new models of care, and particularly for partnership on the primary care/public health side of the health continuum.


HCA members and partnering providers or health plans supportive of this bill can register their support and their thanks for sponsorship to Senator Kemp Hannon, NYS Senate, Legislative Office Building, Albany, NY 12247; (518) 455-2200; hannon@nysenate.gov. Stay tuned for upcoming alerts for guidance on Assembly outreach.

**HCA Community Paramedicine Bill Passes Senate**

On June 8, the Senate passed HCA co-drafted legislation (S.5588 by Senator Hannon) to authorize collaborative models of community paramedicine, via joint development and sponsorship by home care, hospitals, physicians and emergency medical services (EMS) providers. This legislation has drawn the support of major state and regional associations, including many in the hospital and EMS community. Like the physician-homecare partnership bill just-described, this legislation provides flexibility for home care to partner in new ways in the delivery of services. Unlike prior versions of community paramedicine, which were designed more as a standalone EMS model, this approach brings the key providers together to design and frame collaborative and coordinated approaches to both emergency and non-emergency care.

HCA members should write or call to express their support and thanks to Senator Hannon for his sponsorship and the Senate’s passage of this bill. HCA continues to work with partners to garner support for passage of the Assembly bill (A.2733-A) sponsored by Assemblyman Richard Gottfried. HCA members should stay tuned for guidance from HCA on the most helpful and timely outreach to support Assembly passage.

**HCA Emergency Preparedness “Essential Personnel” Passes Senate**

On June 7, the Senate passed HCA’s “Essential Personnel” bill (S.5016 by Senator Andrew Lanza) that would permit home care and hospice practitioners to access their patients in emergencies. The Assembly bill (A.6549 by Assemblyman Michael Cusick) is in the Assembly Governmental Operations Committee. HCA is working with the sponsors to determine what other provisions can be included in this bill to earn the signature of Governor Cuomo, who has vetoed this widely supported bill three times.

HCA members can best help with anecdotal and statistical information: Please e-mail Al Cardillo at acardillo@hcanys.org or Alexandra Fitz Blais at ablais@hcanys.org with either: 1) examples of situations where your agency’s or MLTC’s direct care staff were obstructed in accessing patients during one or more public emergencies; or 2) your
Due Date Again Changed for FLSA Attestations; Now June 16

The state Department of Health (DOH) announced to plans and providers that it has again extended the due date for the Fair Labor Standards Act (FLSA) attestations. The new due date is June 16.

DOH has already extended the deadline once before, from May 5 to June 9, to allow DOH to address certain issues raised by plans and providers.

In mid-April, DOH had posted guidance on funds intended for use in meeting the 2015 FLSA changes, including an April 2017 Dear Colleague Letter on FLSA Implementation and accompanying attestation forms available at https://www.health.ny.gov/health_care/mccaid/redesign/fair_labor_standards_act.htm.

DOH is requiring that plans and providers alike sign and submit attestations by June 16 directly to the Department (FLSA@health.ny.gov). DOH strongly encourages providers to also send their attestations to their contracted managed care plans. Plans are directed to distribute and obtain all signed attestations from their contracted providers and retain them for their records. The submitted attestation, according to DOH, confirms that funds received were disbursed in compliance with its letter.

HCA has significant concerns regarding the April guidance, as it raises issues and complications for plans and providers.

HCA will communicate new information regarding this issue as it becomes available.

For further information, contact acardillo@hcanys.org.

Additional Bills

A number of additional HCA-developed bills and/or bills important to home care, MLTC and hospice are also on HCA’s radar for possible leverage opportunities. These include several hospice and palliative care bills, such as hospice residence and “MOLST” (Medical Orders for Life-Sustaining Treatment). HCA will advise members of communication points for these bills as the developments unfold.

Lastly, a bill (S.5544 by Senator Hannon, and A.7216 by Assemblyman Gottfried) related to fiscal intermediaries (FIs) has passed both houses of the Legislature at the end of May, and awaits delivery to Governor. The bill specifies dates of compliance with the FI authorization requirement adopted with the state budget. Delivery to the Governor usually occurs sometime between passage and the end of the calendar year; most of the time, delivery is well before then, and is executed at the call of the Governor.

number of “Level 1” priority patients (if readily gleaned from your rosters), as this gives an indication of the severity of patient need for immediate health/medical support in an emergency.
IPRO Annual Conference Features Compelling Presentations, High Honors

HCA members, national leader receive awards for quality

IPRO recognized major contributors to health care quality at its Annual Meeting this past week in New York City, featuring compelling state and national presentations and conferring its 2017 quality awards.

Dr. Carl Flatley, founder of the National Sepsis Alliance, and Dr. Marcus Friedrich, Medical Director for the State Department of Health both gave impassioned presentations on sepsis. Dr. Flatley spoke from the perspective of both the National and Global Sepsis Alliance, and very deeply, as the father of Erin Flatley who was suddenly taken by sepsis at age 23, and who has been the inspiration of his national and worldwide work. Dr. Friedrich presented the newest data analysis on sepsis morbidity and mortality in hospitals, and on what and how much more needs to be done to reduce these levels. Both sent strong call-to-action messages to the audience of several hundred health care leaders, and both cited HCA’s pioneering work in home care and sepsis. (Contact sepsistool@hcanys.org for more information on the HCA initiative.)

Receiving 2017 quality honors were: HCA members Amy Bowerman, VNA of Utica and Senior Network Health, and James Carey and the entire provider team at R.A.I.N.:

- Ms. Bowerman, Director of Quality Improvement for VNA and Director of Patient Services for Senior Network Health, received quality honors for the accomplishments of her work leading HCA’s sepsis workgroup in the development of the home and community based sepsis screen and intervention tools, now being adopted by home care agencies across New York State.

- James Carey, Executive Director of R.A.I.N (Regional Aide for Interim Needs, Inc.) along...
with Team R.A.I.N, for its committed work in the Everyone with Diabetes Counts (EDC) program. R.A.I.N’s work has included providing evidenced-based diabetes self-management education to its members and to seniors in the Bronx who live with diabetes; and for sustaining the success of the EDC through the adoption of a train-the-trainer model to ensure that staff members continue providing this important education to seniors with diabetes in the Bronx for years to come.

HCA extends our congratulations to these inspirational awardees, and thanks IPRO for its vital collaboration with HCA, particularly IPRO Senior Director for Quality, Sara Butterfield, who is HCA’s 2017 Ruth F. Wilson awardee.

Are you dedicated to making a difference in an individual’s life? iCircle is hiring for Care Managers to join their rapidly growing Care Management team!

icircle believes in their employees by offering:

- Competitive pay
- Paid time off (including your Birthday!), Vacation time, Personal time
- Health care coverage including health, dental, vision
- 403(b) Retirement plan
- Health and Wellness Reimbursement
- Tuition Reimbursement
- Employee referral program

Locations:

iCircle currently covers over 22 counties in the upstate and central New York. Corporate Headquarters is located in Webster, NY and we have both in house and remote Care Management positions available.

Qualifications:

- New York State RN, Bachelor’s degree preferred OR Licensed Master’s Social Worker
- Minimum five years in healthcare related field, with 2 years as a care manager in managed care environment or community health
- Must be at least 18 years of age
- Reliable transportation (NYS Drivers’ License required)
- Maintain all required certifications/training by State regulations and iCircle policy
- Bilingual a plus
- High attention to detail
- Experience utilizing computer software including Microsoft Word and clinical applications

iCircle Care offers tremendous growth opportunities.

CDS Life Transitions, the parent company for iCircle. iCircle Care is an equal opportunity/Affirmative Action Employer Minorities/Female/Disabilities/Veteran.

DIRECTOR OF CLINICAL PRACTICE AND INNOVATION

OVERVIEW:

VNA Home Health is a CHHA providing services in Albany and surrounding counties. At VNA Home Health, you will have a unique opportunity to apply your transformative skills to lead a caring, professional team.

We are seeking a dynamic homecare leader to fill the position of Director of Clinical Practice and Innovation. Reporting directly to the CEO, this senior leader will be responsible for overseeing the delivery of all Nursing, Rehabilitation, Social work, and home health aide services. He/she will develop and execute innovative clinical models and programs to promote excellence in clinical practice, optimal patient outcomes, and successful positioning for new and innovative reimbursement models; as well as lead the development of strategies to expand clinical programs and promote growth.

QUALIFICATIONS:

We are looking for someone with strong organization, management, and communication skills, along with enthusiasm and creativity. The successful candidate must have a Baccalaureate Degree in Nursing, Master’s Degree in nursing or related field highly desirable; a current NYS RN license and a Minimum of five (5) years Supervisory/Management experience, two (2) of which should be in Community Health. VNA Home Health is proud to offer an excellent compensation and benefits package including competitive salary, health/Dental and vision insurance, paid time off, life insurance and 403 (b) with employer match. Relocation Expenses are included. Candidates meeting the desired qualifications are encouraged to submit a cover letter, resume/CV and salary requirement to careers@vnaalbany.org.

HCR Home Care, a leader in Home Health Care for nearly 40 years operates both Certified and Licensed Home Care Agencies in New York State. We are currently looking for a Director of Nursing for our Central New Regional Office, located in Syracuse.

The Director of Nursing (DON) supervises the provisions of nursing services provided by the agency. This person is available at all times during operational hours and participates in activities with respect to professional services. Collaborates with others across Departments to facilitate and assure the delivery of high quality care. The DON will report to the Director of Patient Services.

Job expectations (include but not limited to):

- Supervises the day to day clinical operations
- Supervision of RN Case Managers and other nursing personnel
- Oversees instruction of nursing and other staff in providing quality service and maintaining regulatory and professional standards, including in home visits to direct and evaluate patient care
- Proactively addresses operational and clinical practices to prevent patient harm and/or organizational deficiencies or inefficiencies
- Assures that the clients’ plan of care is executed as written

Interested applicants can apply at www.hcrhealth.com or they can forward their resumes to tsonce@hcrhealth.com.

ECE/AA Minority/Female/Disability/Veteran
LHCSA Statistical Workgroup Meets

New Draft Provider Reconciliation Cost Report Previewed

This week, the Licensed Home Care Services Agency (LHCSA) Statistical Report Workgroup, established by the state Department of Health (DOH), held its second meeting.

The Workgroup is comprised of HCA, other associations, DOH officials, HCA members and other LHCSA representatives.

The goals of the workgroup are to:

- Increase the compliance rates for the LHCSA Statistical Report
- Capture data relevant to service delivery
- Ensure quality data is collected in a timely manner
- Ensure terminology in the report is used universally across the industry
- Streamline data reporting

At this meeting, DOH reviewed the proceedings of the first meeting (see the May 8 edition of The Situation Report), discussed feedback from HCA and other associations on the existing LHCSA Statistical Report, reviewed enforcement actions against LHCSAs who did not complete last year’s Statistical Report, and previewed a new draft form – Provider Reconciliation Cost Report – that will be distributed to collect data to verify that monies included in the rates for the recent minimum wage increase were used for that purpose.

Some similar recommendations made by HCA and other provider associations include the need for: clear instructions; uniform terminology and meaning; more user-friendly completion and submission methods; and splitting out certain components (“cost” versus “patient” data and separate well-care information).

HCA had submitted extensive comments on the Report based on valuable feedback from members. These included general comments as well as recommendations for each section of the Statistical Report.

At the meeting, DOH discussed the possibility of establishing a “renewal” process for existing LHCSAs whereby they would need to reapply periodically. HCA and other provider representatives urged that it not be a separate process, but be incorporated into the existing Statistical Report.

DOH asked for feedback on ways to align the existing reports (Personal Care Provider Cost Report, LHCSA Statistical Report and new Provider Reconciliation Cost Report) so that questions on a particular topic are worded and defined similarly. HCA urged that any attempts to reconcile these reports should minimize the duplication of questions.

There was a lengthy discussion about DOH’s intended requirement that LHCSAs with different offices submit separate Statistical Reports for each office. Ways were considered to reduce the paperwork, including
allowing one report to include certain financial data and whether or not patient data could be listed for each county but on one single form.

As requested by HCA and others, DOH is developing webex training on the LHCSA Statistical Report that will be provided prior to the posting of the 2016 LHCSA Statistical Report on the Health Commerce System.

Any changes to the LHCSA Statistical Report will not be made in time for this year’s 2016 report, which will be posted this summer, but may be incorporated into the 2017 report.

**Enforcement Actions**

DOH reviewed its enforcement actions against some of the agencies which did not submit the 2015 Statistical Report. Ten such LHCSAs had submitted change of ownership applications and eight have requested that the 2015 Statistical Report be reopened so that they can complete it. Stipulations and orders for these LHCSAs will be posted on DOH’s *Home Care Agency Profiles* website.

An additional 30 LHCSAs are in arrears for completion of their Statistical Report.

**Provider Reconciliation Cost Report**

DOH staff provided an overview of a draft *Provider Reconciliation Cost Report* that it has developed to verify that state funding for the recent minimum wage increase is being used appropriately.

DOH will first send the form to those agencies (about 700) that submitted an earlier (February) minimum wage survey and then will send to additional agencies in DOH directories. HCA urged that DOH hold a webinar to review every question on the report.

DOH sought the providers’ reaction on allowing some agencies to complete the report as a “test run.”

HCA is seeking feedback from members on this new form. Agencies wishing to provide comments should contact Andrew Koski at akoski@hcanys.org or (518) 810-0662.

**HCA to Convene HR Committee – Membership Input Sought**

HCA is developing a Human Resources (HR) committee to assist agencies in dealing with common issues and concerns related to employment. We would like your input on which issues the committee should address. Please complete the short survey at the link below as soon as possible, and **no later than June 30**.

https://www.surveymonkey.com/r/VXJTGPS
Come see us at a location near you, enjoy a meal or a snack, and chat about what’s on your mind!

HCA’s hitting the road to meet members and to hear what’s on your minds at ten locations covering every region of the state.

In June and July, we’re inviting you to meet up with us at local restaurants and other informal settings near you where there’s no pre-planned agenda – just a time and a place, over a meal or a snack, to discuss your concerns, your ideas and your input for HCA’s continued work on your behalf.

Each session, complimentary with your HCA membership, will have representatives from the HCA policy and operations teams to listen-in, discuss your ideas and answer your questions.

How to Join Us

Please visit the online link below and pick one of the locations that’s closest to you! A list of times and locations are printed at right. (We’ll have more specific venue selections soon, each offering group dining and a comfortable setting to chat.)

https://www.surveymonkey.com/r/ASKHCA.

Please limit your registration to one or two people from your organization, so that this session can be a small, intimate conversation.
DOH Finalizes Uniform Billing Codes

January 1, 2018 Targeted for Implementation

Last week, the state Department of Health (DOH) held discussions with HCA, the New York State Association of Health Care Providers, LeadingAge NY and the Consumer Directed Personal Assistance Association of New York State about finalizing uniform billing codes for long term care services provided to managed long term care enrollees.

The requirement for uniform billing codes was in the final 2015-16 state budget and was supposed to be implemented by January 1, 2016.

The implementation date was delayed numerous times to give providers and plans time to develop the codes and provide feedback at various stages of the process, and to address issues raised by the U.S. Centers for Medicare and Medicaid Services on allowable codes and modifiers.

While DOH intends to issue a Dear Administrator Letter (DAL) sometime this summer – in deference to the many logistical and implementation issues discovered in the work-up and raised by HCA’s providers and MLTCs – DOH agreed to delay the implementation date until January 1, 2018. DOH agreed with suggestions to allow the provider associations to review the DAL before it is finalized and to conduct a webinar for plans and providers prior to implementation.

The codes and modifiers will apply to personal care aide, home health aide, consumer directed personal assistance, nursing, therapies, telehealth, medication dispensers and adult day health services.

For more information, contact HCA policy staff.

Executive Order 162 Guidelines Released

On June 1, 2017, the state Empire State Development (ESD) agency issued draft guidelines and Frequently Asked Questions (FAQs) on Executive Order (EO) No. 162 reporting requirements and logistics for state contractors to submit workforce compensation data. The draft guidelines are open to public comment until June 30, 2017.

The guidelines, FAQs and sample report and instructions are at https://esd.ny.gov/doing-business-ny/mwbe/mwbe-executive-order-162.

Five months ago, Governor Cuomo signed EO 162 “Ensuring Pay Equity by State Contractors.” This order requires state contractors and subcontractors to submit workforce compensation data to the state, including data on the gender, race/ethnicity, and salary of employees performing work on state contracts entered into after June 1, 2017.

The draft guidelines and FAQs do not clarify whether, under EO 162, managed long term care plans (MLTCs) and home care providers are considered “state contractors” or “subcontractors” as a result of their Medicaid contracts with New York State, nor do these documents clarify EO 162’s applicability to home care agencies that provide services under the Expanded In-Home Services for the Elderly Program (EISEP). HCA continues to seek clarification of this important issue, and will report immediately any new developments in this regard.
Among other things, the draft guidelines from ESD further clarify the distinction between which state contractors must report monthly and which must report quarterly, and they also lay out exemptions from the reporting requirements for certain state contractors and subcontractors. Although MLTCs and home care providers are not included on the list of entities that are exempt from reporting, as noted, it is not yet entirely clear whether MLTCs and home care providers are even subject to EO No. 162.

Also, one proposed exemption is “any recipient of a grant.” HCA will seek clarification on how a grant is defined and whether all state grants are exempted.

The ESD draft guidelines narrow which subcontractors are subject to the reporting requirements. According to the draft guidelines, “subcontractor” for the purposes of the reporting requirement includes only subcontractors providing services to or on behalf of a prime contractor on a state contract, and not those providing exclusively goods and transportation to or on behalf of such a prime contractor. In addition, certain prime contractors themselves are exempt from reporting due to the purpose of EO 162, which ESD states is “to collect data related to the equitable payment of New Yorkers deployed by state contractors.”

Beyond narrowing the contracting entities required to report workforce compensation data to the state, the draft guidelines also exempt whole classes of state contracts from the reporting requirements. Medicaid contracts are not included in this exemption but it remains to be seen whether a Medicaid contract alone would trigger EO 162 obligations.

ESD also released EO 162 FAQs, as well as instructions for submitting the required workforce utilization reports and the workforce utilization report form. The finalized guidelines and supporting materials will be important in determining whether a state contractor, subcontractor, or parties to certain state contracts will be required to report workforce utilization data to the state. Although EO No. 162 says state agencies and authorities must include a provision with these reporting requirements in state contracts issued and executed on or after June 1, 2017, the ESD guidelines make clear that reports are not required until January 2018.

Over the next six months, then, MLTCs and home care providers should be aware that any new state contract could include EO 162 reporting requirements. The finalized ESD guidelines will dictate whether, when and how state contractors and subcontractors will have to report workforce utilization and compensation data to the state.

For more information, contact the HCA Policy staff.

This article was contributed by Damian Privitera, Attorney at Law, Jackson Lewis P.C., the firm of HCA’s counsel.
Hospice Provider Preview Reports Now Available for Review

The U.S. Centers for Medicare and Medicaid Services (CMS) has announced that Provider Preview Reports for the Hospice Item Set (HIS) are available with data from October 1, 2015, to September 30, 2016.

Agencies that believe their quality measure results are inaccurate can request a CMS review until June 30.

This summer, CMS will release Hospice Compare data for the first time. Providers may continue to submit corrections to HIS data for 36 months beyond the target date on a given assessment; corrections will be reflected in subsequent quarterly preview reports and Compare refreshes.


DOH to Soon Post 2017 Medicaid FFS Rates, Cost Report Software for LTHHCPs

During a recent call, the state Department of Health (DOH) confirmed for HCA that it will be publishing soon, via the Health Commerce System (HCS), the 2017 Medicaid fee-for-service (FFS) rates for Long Term Home Health Care Programs (LTHHCPs) and the 2016 LTHHCP Medicaid Cost Report software.

The 2017 Medicaid FFS rates should be used to reimburse claims for LTHHCP patients under 18 years of age. All other LTHHCP services will be reimbursed on the basis of a 60-day episode of care otherwise known as the Certified Home Health Agency (CHHA) Episodic Payment System (EPS). LTHHCPs providing Medicaid services should only bill on a FFS basis when providing services to pediatric patients under the age of 18 and, under the EPS, the FFS rates are also used to determine “Total Service Price” for Low Utilization Payment Adjustments (LUPAs) and Outlier calculations.

DOH also confirmed that it plans in the coming weeks to post the 2016 LTHHCP Medicaid Cost Report software to the HCS. It is DOH’s expectation that the 2016 LTHHCP Cost Report should be completed by any LTHHCP that provided services during Calendar Year (CY) 2016, as well as any LTHHCP that expects to bill the Medicaid EPS on an ongoing or future basis.

DOH will be issuing detailed Dear Administrator Letters (DAL) to accompany the 2017 LTHHCP Medicaid rates and posting of the 2016 Cost Report software; HCA will notify the membership when that occurs.

These DALs result from HCA’s vigorous efforts, over the past several years, to clarify and promote opportunities for LTHHCP providers to serve patients and bill Medicaid in the changing health care system. Though the federal LTHHCP waiver has expired, the state has since clarified that LTHHCPs are permitted to admit and serve patients in a manner otherwise available to CHHAs, including through the EPS, managed care contracting and other opportunities.

Last year, DOH’s Bureau of Long Term Care Rate Setting sent a notice reinforcing this status, stating that LTHHCP providers “with valid operating certificates may directly admit and serve patients under their
LTHHCP/CHHA-authorization. Although federal waiver approval for the LTHHCP no longer exists, the LTHHCP provider may contract with Medicaid waiver programs to provide home health services to Medicaid waiver program enrollees or fee for service Medicaid recipients.” This means that LTHHCPs may:

- Directly admit and serve Medicaid and dual Medicare-Medicaid patients consistent with state and federal CHHA guidelines.
- Directly admit and serve Medicare, private pay, and private insurance patients under applicable Medicare, Article 36 and/or State Insurance Law standards.

DOH’s communication also stated that “Effective October 1, 2016, LTHHCP providers, delivering home health services, are granted access to bill Medicaid using the appropriate CHHA Episodic Payment System (EPS) rate codes.” DOH has also stated: “It should be noted that LTHHCP providers which take advantage of this opportunity will also be required to file the appropriate Cost Report each year.”

HCA also worked with DOH on a Question and Answer document (dated July 26, 2016) that clarified the status, operating authority and service roles of LTHHCPs and is available at https://www.health.ny.gov/health_care/medicaid/redesign/mrt90/docs/2016-08-10_qandas_lthhcp.pdf.

HCA continues to advocate for a strong role for LTHHCPs in the Delivery System Reform Incentive Payment (DSRIP) program, value based payment and other models and asks that existing LTHHCPs relay their experiences to us.

For further information, contact HCA Policy staff.

HCA MLTC Forum Discusses Pressing Issues, New Initiatives

HCA and member MLTCs conducted a call-in meeting this past week to discuss status and strategies on a host of key issues. These included:

- Implementation of state budget items and related developments, such as steps under way with the budget “side letter” on potential rate methodology modifications, status of MLTC quality incentive payments, the wage parity mandate, and others.

- Payment and payment adequacy issues, including the 24-hour live-in ruling and implications, Fair Labor Standards Act funds, myriad new state Department of Health (DOH) reporting requirements for plans and home care agencies, new audit areas, Consumer Directed Personal Assistance Services (CDPAS) and others.

- Design and pending rollout of DOH’s $245 million waiver-funded “Workforce Investment Program,” and issues/implications for MLTCs, providers and workers.

- Latest DOH Value Based Payment developments and implications, including HCA recommendations for technical assistance to plans and providers.

- HCA presentation of new program initiatives planned for MLTC and home care in areas of quality, nursing, public health, regulation and others.

Continued on next page
Continued from previous page

- Status of relevant legislation at issue in the windup of the 2017 state session.

Aspects of the discussion also served as preparation for a next-day DOH monthly MCO/MLTC all-plan and association meeting (discussed below).

These HCA MLTC Forum meetings offer an extremely productive venue laying out assistance needs, advocacy strategy and programmatic ideas mutually benefitting plans, providers and patients. HCA MLTC member plans are invited to participate in these in-person and call-in meetings. Please contact Billi Wilson at bwilson@hcany.org to be added to our MLTC member contact list.

For further information, please contact acardillo@hcany.org.

Updates from DOH Managed Care, VBP Meetings

DOH held its monthly managed care plan meeting with plans on June 8, as well as a meeting of its MLTC VBP Clinical Advisory Committee on June 9. HCA and HCA members participated in both.

June 8 Monthly DOH-MLTC/MCO Meeting

Among the updates provided to MLTCs were: latest enrollment figures (198,100 statewide as of May 1); activity updates on the Conflict-Free Evaluation and Enrollment Centers; Community First Choice Implementation (HCA and HCA member MLTCs are on the steering committee); value based payment for MLTC (HCA is a member of that steering committee as well); review of the forthcoming $245 million Workforce Investment Program; and a report that DOH billing guidelines on dual eligible hospice cases are under development (HCA has requested review and input on the draft of these guidelines). Many of these issues have been reported on in recent editions of The Situation Report. Slides for this portion of the meeting are at http://hcany.org/wp-content/uploads/2017/06/06.08.17.MLTC_policy_and_planning3.pdf.

Plans raised concerns over the further instability unfolding on payment and service for 24-hour live-in cases in the wake of last month’s court ruling and pending litigation, along with the absence of state guidelines for handling such cases, and, in some instances, providers indicating their inability to staff live-ins under the current ruling.

DOH said guidance was under development and that the Administration was fully assessing and discussing potential responses based on the course of the litigation and the fiscal implications. DOH reiterated the provider’s responsibility to serve cases and indicated that this would also be reflected in the guidance. HCA underscored the fiscal and staffing uncertainty for plans and providers created by the rule, stressed that state guidance and resolution was promptly needed, and pledged to assist at both state and plan/provider levels.

Privacy and Data Sharing Within DSRIP – Newly Issued Guidance

DOH provided an overview of its newly-issued June 5 guidance, “Documentation: Privacy and Data Sharing within DSRIP.”

Continued on next page
The new document outlines strategies to facilitate protected health information (PHI) data sharing within DSRIP. The guidance defines the functions of the Medicaid program, DSRIP providers and managed care organizations that provide services to the Medicaid population in order to facilitate sharing of clinical and claims data between DSRIP providers and managed care.

The full document can be viewed at http://hca-nys.org/wp-content/uploads/2017/06/FINAL_Privacy-and-Data-Sharing-within-DSRIP-June-5-2017-002.pdf. HCA will be providing members with further information and assistance on this document, its goals and implications.

Other, more general DSRIP updates included:

- Next steps in the DSRIP timeline and key benchmarks.

- A five-year DSRIP evaluation to be conducted by a team of over 30 researchers from the University at Albany, Boston University and University of Maryland, addressing the cost, quality and access to Medicaid services, and inclusive of qualitative surveys and focus groups with Performing Provider Systems (PPSs) and partners/providers, time series analysis, and quantitative research simultaneously.

- Current DSRIP highlights, dashboard updates, and data sharing within DSRIP.


June 9 DOH MLTC Clinical Advisory Committee VBP Review

DOH Division of Long Term Care Medical Director Dr. Khalil Alshaer convened the MLTC Clinical Advisory Committee (consisting of MLTCs, providers, HCA and others) to update the committee on VBP developments for MLTCs and providers.

Though some of this updated overlapped with previous information reported to members as part of our work on the principal VBP steering committee, Dr. Alshaer went into further depth on the state’s plans and rollout scenarios for MLTC VBP.

Some of the key takeaways include: the now tight parameters for VBP financing and shared savings under MLTC (in the absence of authority to capture Medicare savings within VBP); the consequent (and greater) need to identify effective strategies for achieving VBP performance and savings within these tighter parameters; the forthcoming dates and phased milestones for VBP achievement that DOH is expecting of MLTCs and providers; the specific quality measures against which MLTC/provider VBP performance will be determined, particularly the avoidable hospitalization measures; and further principles guiding the MLTC-provider VBP process.

HCA recommended that DOH consider incorporating some of its planned $245 million workforce incentive program for staff training and education in areas that will concretely assist providers and MLTCs in VBP target performance areas, such as the categories of preventable hospitalization. HCA also recommended
进一步DOH的技术援助途径及策略，无论是否针对特定临床条件，还是在MLTC-提供者运营方面，都旨在支持VBP的发展。

For further information, please contact acardillo@hcanys.org.

**Full PHHPC Acts on Hospice and Home Care Applications**

On June 8, the Public Health and Health Planning Council (PHHPC) acted on provider applications.

The agenda, along with supporting documents, is at [https://www.health.ny.gov/facilities/public_health_and_health_planning_council/meetings/2017-06-08_full_council/](https://www.health.ny.gov/facilities/public_health_and_health_planning_council/meetings/2017-06-08_full_council/).

At the meeting, the following applications were approved:

- An entity to become the active parent of a hospice;
- A Certified Home Health Agency (CHHA) that serves some downstate counties to purchase a CHHA that serves Dutchess and Suffolk counties, and to add personal care to its authorized services;
- An entity to become the active parent of a CHHA;
- 35 entities to establish Licensed Home Care Services Agencies (LHCSAs); and
- Six LHCSAs for changes of ownership.

During the review of the LHCSA applications, some PHHPC members expressed concern about the number of new LHCSA applications and asked to discuss this issue at a future meeting.

The next meeting of the PHHPC Committee on Establishment and Project Review is July 20 and the next full PHHPC meeting is August 3.

**HCA Submits Comments on OMIG NHTD Audit Protocols**

HCA, along with LeadingAge NY and the New York State Association of Health Care Providers, has submitted comments on draft audit protocols developed by the state Office of the Medicaid Inspector General (OMIG) for the Nursing Home Transition and Diversion (NHTD) waiver program.

The draft audits cover many areas, including: no documentation of service or recipient record; missing service plan; billing more hours than documented or authorized; billing an incorrect rate code; failure to meet service coordination requirements; exceeding caseload limit for service coordination; not completing provider training; services provided by unqualified staff; failure to complete annual in-service training for
home and community support services staff; missing evidence of nurse supervision visit; failure to obtain authorized practitioner’s signature within required time frame; and more.

We provided feedback on a number of protocols and recommended:

- OMIG consider “extenuating circumstances” beyond the home care provider’s control before determining that a protocol is not met;
- Flexibility in determining when claims would be denied if a protocol is not met;
- Corrections of any inaccuracies;
- Changes to align with current state Department of Health policies; and
- Necessary clarifications.

HCA and the other provider associations had submitted comments on an earlier draft of these protocols, and some revisions were made based on our recommendations.

*For more information, contact Andrew Koski at akoski@hcanys.org or (518) 810-0662.*

**New eMedNY Managed Care Listing**

eMedNY has posted a new listing of managed care plans, including mainstream, partial capitated plans, PACE, Medicaid Advantage, Medicaid Advantage Plus, FIDA, and Health and Recovery Plans (HARP).

The list, along with contact information, is at https://www.emedny.org/ProviderManuals/AllProviders/PDFS/Information_for_All_Providers_Managed_Care_Information.pdf.

eMedNY has also posted an updated Medicaid Eligibility Verification System (MEVS) Quick Telephone Reference Guide. It is at https://www.emedny.org/ProviderManuals/5010/MEVS%20Quick%20Reference%20Guides/5010_MEVS_Telephone_Quick_Reference_Guide.pdf.

**Resources**

- “Medicare Advantage 2017 Spotlight: Enrollment Market Update,” by the Kaiser Family Foundation
  

*For more information, contact Andrew Koski at (518) 810-0662 or akoski@hcanys.org.*