



June 7, 2024

Legislative Update: When Will Session End?

Session was supposed to be over yesterday, it may be over today, or it may not be over until the weekend as lawmakers grapple with the governor's sudden reversal on Manhattan congestion pricing, creating a multibillion-dollar deficit in the MTA's capital budget. This prompted state lawmakers to consider a proposed tax on city businesses to bridge the gap. Hochul has not yet publicly explained her plan to recoup the lost revenue after instructing the public transit system to "indefinitely" suspend its congestion pricing program, which was set to begin on June 30 with a \$15 base daytime toll for drivers entering Manhattan below 60th Street.

According to lawmakers and state officials briefed on the proposal, Hochul aims to increase the existing payroll tax rate for New York City businesses with annual payroll expenses over \$1.75 million, raising it from 0.6% to 0.825%. On Thursday, Hochul urged legislative leaders to approve the Payroll Mobility Tax to address the \$1 billion gap left by the delay in congestion pricing. However, lawmakers rejected the proposal, arguing that one day was insufficient to negotiate a new tax, particularly during an election year.

"The governor has stated that she has a billion dollars available to replace congestion pricing as a funding source for this year, but as the chair of the Senate Finance Committee, I am not aware of any such funds, and she has not given the Legislature any indication of their location," said Senator Liz Krueger (SD 28).

HCP Suite of Priority Bills

Despite all the tumult, lawmakers continue to pass bills, including some critical to the home care industry. The following bills will make a positive difference for home care. It's up to us to push for passage. [Add your voice to those of other home care champions](#). Messages sent through HCP's Take Action platform are only visible to your legislators and HCP.

Upholding the Certificate of Need Process: [S9049 \(Scarcella-Spanton\) / A9204 \(Paulin\)](#)

- **PASSED BOTH HOUSES:** Awaits delivery to the governor.

Billing Entity Choice Bill: [S6123 \(Rivera\) / A5750 \(Paulin\)](#)

- **LIVE:** On the floor in the Assembly, and on the Senate Floor, 3rd Reading Calendar. The Downstate Coalition of Union Home Care Agencies has issued a Memorandum in Support, adding to their voice in support of this critical legislation in the final days of session.

OMIG Audit Reform Bill: [S5329 \(Rivera\) / A6813 \(Paulin\)](#)

- **LIVE:** Passed the Senate, delivered to the Assembly and now in the Assembly Ways and Means Committee

MLTC Data Transparency Bill: [S09266 \(May\) / A10176 \(Gonzalez-Rojas\)](#)

- **In Committee**, unlikely to move: in Assembly Ways and Means committee and Senate Health committee

Fair Pay Accountability Act: [S6963 \(Rivera\) / A7335 \(Paulin\)](#)

- **In Committee**, unlikely to move: Assembly Ways committee and Means and Senate Health committee

Secret Senate Cabal

Early Tuesday, a secret Senate group known as the Working Rules group met to review hundreds of pending bills, a process largely unknown even to some senators. This group, comprised entirely of Democrats, decides which bills should advance without public notice or transparency, drawing criticism for its lack of accountability. Proponents argue that the group's secrecy is necessary for efficiency, but critics contend it undermines democratic principles. Recent reporting revealed the group's existence and prompted a defensive response

from Majority Leader Andrea Stewart-Cousins' spokesperson. Historically, the process was more transparent under the Republican majority, highlighting current concerns about legislative secrecy.

As usual, Tuesday's meeting was held without public notice, but a source informed a New York Focus reporter about its time and location. Upon spotting the reporter in the hallway outside Senator Gianaris's office, a Senate staffer locked the door, temporarily barring several late-arriving senators from entering. Two hours later, the reporter entered the office and inquired if the Working Rules meeting was still ongoing. Gianaris emerged from a side room and replied, "What Working Rules?"

HCP Support

While it's unclear at the time of publication when the legislature will wrap, HCP's Public Policy team continues to monitor and analyze developments. Keep an eye on your inbox for late-breaking news. With an anticipated wrap-up coming over the weekend, Monday will likely bring an update with the final outcomes of HCP's priority bills. One thing is certain: lawmakers want off "Planet Albany" to get back into their districts in time to win primaries and re-elections.

HCP's Public Policy team is committed to bringing you timely, factual updates and analysis. You can reach us anytime by [email](#) or by phone at 518-463-1118.

CHRC System Issues and DOH Guidance

An HCP member alerted us to an issue with accessing the Criminal History Record Check function in the Health Commerce System (HCS). HCP contacted the CHRC technical department to inquire about the status of the resolution.

CHRC responded that the system had been "temporarily unavailable for several providers since Friday 05/31." They informed us that the IT department is working on a fix, and the issue is expected to be "completely resolved shortly".

Today, DOH released the following information: "We have received reports of providers having technical problems when attempting to access the Criminal History Record Check portal. IT has been notified and is working on a fix to correct the issue. We do not have a timeframe of how long this will take but do expect for it to be resolved quickly. Some providers have been able to access the

portal by changing their browser to Chrome, Firefox, or Explorer, but this has not worked for everyone. If you are looking to check the status of an applicant, you can do that by sending us an e-mail at chrc@health.ny.gov with the applicant's full name and DOB or by calling 518-402-5549. If looking to submit documents for an applicant, you can e-mail us at chrc@health.ny.gov. Thank you for your patience and apologize for any inconvenience this may cause."

We greatly appreciate the information from our HCP members, who are our "eyes and ears" in the field. Contacting us when you have an issue allows us to help all HCP members.

Home Care Mobilizes to Stop Single FI

The newly formed Alliance to Protect Home Care convened a pivotal meeting on Wednesday, June 5, to unveil an industry-wide strategic response to the implementation of a single, statewide Fiscal Intermediary (SFI) as mandated by the New York State Budget. This mandate, which repeals and replaces the Request for Offers (RFO) process, has sparked significant concern among home care providers and advocates, who argue that it disregards state contracting and procurement laws, upending the industry and threatening to disrupt consumer access to care.

Bryan O'Malley, Executive Director of the Consumer Directed Personal Assistance Association of NYS (CDPAANYS), opened the meeting by outlining the severe implications of the new budget measure. He highlighted how this policy shift, which prohibits all Fiscal Intermediaries that aren't the SFI or its subcontractors from operating in the state beginning in April 2025, undermines existing laws and threatens the integrity of home care services. O'Malley called for an aggressive, multifaceted response, encompassing legal action and a robust public relations (PR) campaign. He stressed the importance of coordination and assured attendees that the effort would be supported with ample data, financial resources, and human capital.

Legal experts Hermes Fernandez and Roger Bearden of Bond, Schoeneck, and King (BSK) provided a strategic legal roadmap, pointing to Governor Hochul's previous retreats from contentious policies as a potential advantage. They suggested that delaying the implementation of the SFI could open the door to better policy solutions, and highlighted the numerous legal avenues available,

advocating for a combined legal and public relations strategy to delay the policy's implementation.

Julian Hagmann, Vice President at Caring Professionals, Inc., and the newly named executive of the Alliance, expressed his confidence in BSK's legal strategy and emphasized the long-term nature of the PR campaign. He focused on the [fundraising efforts](#) necessary to sustain the campaign.

Maggie Moran, CEO of [Moxie Strategies](#), brought her campaign expertise to the table, noting her past work with Governor Hochul. Despite her connections, Moran asserted that the Governor's policy is wrong. She outlined a proposed PR campaign's objectives: to gain leverage, and influence, and ultimately to make the SFI policy politically toxic through a well-funded media campaign.

She emphasized the importance of energizing, activating, and mobilizing grassroots supporters, with the meeting attendees and other stakeholders playing a key role in this effort. Moran also pointed to the strong opposition among New Yorkers to a corporatized healthcare system, which aligns with the campaign's messaging strategy. She highlighted corruption, job losses, and disruption of care as key talking points. The campaign will include a significant media buy lasting several months.

As the meeting concluded, the Alliance to Protect Home Care solidified its strategy to challenge the SFI policy. With a combination of legal challenges, a strategic PR campaign, and substantial fundraising efforts, the Alliance aims to delay and ultimately prevent the implementation of a policy that threatens the quality and integrity of home care services in New York. An additional meeting is anticipated in Western New York with a date yet to be announced.

HCP's objectives include ensuring our members' voices are heard and empowering them to present a unified message. We anticipate widespread disruption extending beyond FIs and CDPAP, and our goal is to mitigate these disruptions while preparing our members for the changes ahead. Achieving success will require coordinated action, pooled financial resources, and transparent information sharing.

In the News

Today, June 6, an op-ed by Candace Prince-Modeste, President of the Jamaica Chapter of the NAACP, was published in the [Albany Times Union](#). In the article, Prince-Modeste highlights how the Consumer Directed Personal Assistance Program (CDPAP) has provided marginalized communities, especially those of color, with dignified, culturally appropriate care from trusted caregivers. She

concludes that the shift to a single Fiscal Intermediary will severely disrupt the program, exacerbate health disparities in these neighborhoods, and leave over 200,000 vulnerable New Yorkers without essential care options.

HCP Support

HCP's Public Policy Committee and Board of Directors are ready to discuss the information presented at this meeting. They will provide guidance and set parameters for focusing our resources where they will have the most impact. Our members can expect regular communication, coordination with stakeholders at all levels, guidance, connection with organizations leading key responses, and opportunities to engage meaningfully in the industry-wide response.

Home Care Cost Report Opened May 31

As announced by KPMG and the Department of Health (DOH/the Department) in a recent email communication, the 2023 Home Care Cost Report was released on May 31, 2024, which is similar in timing to last year's launch.

Providers have 90 days to complete and submit the report by August 30, 2024.

The Home Care Cost Report is a DOH requirement for Certified Home Health Agencies (CHHA), Licensed Home Care Services Agencies (LHCSA), and Fiscal Intermediaries (FI). ***See below for the types of organizations that are exempt from this requirement.***

Affected agencies are advised to check their inboxes for Friday's email sent by KPMG at us-advrisknyshc@kpmg.com. The email includes the link to the [Home Care Cost Report Tool dashboard](#).

Outreach Planned

As in previous years, KPMG and DOH will present a one-hour ***Home Care Cost Report Kickoff Webinar*** for providers and other stakeholders. The one-hour session is scheduled for Thursday, June 13, 2024, at 11:00 am.

Note that this webinar is being presented via Microsoft Teams. Advance registration is not required.

Join the webinar virtually to see the presentation:

- [Webinar Link](#)
- Meeting ID: 318 089 325 500
- Passcode: tjGHJL

Alternatively, you may choose to dial in to the webinar by phone using the following information:

- Dial-in Number: +1 917-933-2314
- Dial-in Passcode: 519 306 787#

Home care providers are urged to **submit questions ahead of time** to [KPMG via email](#). KPMG and DOH will make an effort to address submitted questions during the webinar, but a high volume of inquiries is expected so you may receive an emailed response after the session.

Additionally, the 2022 series of **pre-recorded webinars** remain available for providers and stakeholders needing a refresher. Topics for these sessions include key information regarding terminology, cost allocation, schedule descriptions, and more. Note that some materials may refer to 2022 schedules but remain relevant for the 2023 report. The modules can be accessed via the “Useful Links” section of the instructions tab on the web-based tool. If you have questions on the covered topics, [email KPMG](#). More topics will be added if deemed necessary based on questions and audit findings.

If needed to address questions and cover updates, **provider outreach sessions** will be held throughout the summer or posted in the web-based tool as a recorded resource. In addition to answering questions sent to KPMG during the submission period, these sessions will cover schedule components that require more in-depth explanations and guidance surrounding supporting documentation and audit procedures.

There will again be an **Audit Kickoff webinar** in September, and a **Lessons Learned webinar** at the conclusion of the auditing process.

Web-based Tool

The 2023 Home Care Cost Report will be submitted exclusively via [KPMG's web-based tool](#). Select the 2023 option to access this year's report.

For those who submitted recent Cost Reports, the login credentials for the web-based tool remain the same. Use the “Forgot Password” feature to reset your

password if necessary. Those who have not completed a Cost Report since 2019 will need a web-based tool account. [Email KPMG](#) with your agency's name and the full name and email addresses of the individuals who need access to the tool.

Agencies wanting to add users (staff or consultants) to the web-based tool must [email KPMG](#). In your inquiry, include the first name, last name, and email address of the individual that needs access. The agency must make requests for login credentials for outside consultants.

The Home Care Cost Report instructions document can be found within the "Instructions" tab of the web-based tool. It is also available as a downloadable PDF in the "Useful Links" section of the Instructions tab.

The 2023 Home Care Cost Report instructions will be accessible outside the web-based tool on the [DOH website](#). It is not posted as of the publication of this article.

Supporting Documentation Template

Continuing last year's optional pilot program, the supporting documentation template has been updated for use in the 2023 report. These updates were the result of the information gleaned from the 2022 pilot, as well as from provider feedback.

The template is designed to reduce the effort needed to prepare Cost Report supporting documentation. The use of the template reduces reporting errors. Therefore, providers opting into the pilot who are later selected for audit will only be subject to a desk audit; no field audits will be performed for those agencies.

Provider Types Exempt from the 2023 Home Care Cost Report Requirement

- Assisted Living Program (ALP) only agencies
- Private pay-only agencies
- Hospital-based CHHAs or LHCSAs
- Private duty nursing-only agencies
- LHCSAs who contract with CHHAs and provide no other home care services
- CHHAs who provide ONLY hospice services
- PACE program-only facilities
- NHTD and TBI program-only facilities
- Pharmacies delivering home infusion therapy services

HCP Support

HCP urges members to access the 2023 Home Care Cost Report as soon as possible. If you plan to use an outside vendor, set that up immediately, to ensure you meet the submission deadline. Watch future editions of the *HCP Insider* for updates and additional information as it is released by DOH and KPMG.

HCS Security Updates Coming June 20

The Department of Health (DOH/the Department) recently informed users that its Health Commerce System (HCS) will be updated on June 20, 2024, to improve security and usability. ***It's more important than ever to check your HCS contact information and roles to ensure accuracy!***

User Account Security

Security Email Address

All HCS users will be required to use an email address that will be utilized for security purposes. This includes self-password resets and the Multifactor Authentication (MFA) requirement being implemented later this year.

The Security Email Address can be the same as the one used for communications (e.g., Emergency or Business Contact) but *it cannot be the same as another user's Security Email Address*. In other words, each Security Email Address must be unique to a single user. All users can continue to use their current business and emergency contact email addresses for communication purposes.

If you have not yet set up your Security Email Address, you will be asked for it upon login, followed by a confirmatory email. You must click the link in the confirmatory email to verify that the email address is valid.

Personal Identification Number (PIN)

All HCS user accounts will require a Personal Identification Number (PIN) between 8 to 12 digits long. It will verify the user's identity with the HCS Account Management Unit (CAMU). Those without a PIN will have one suggested for them the next time they log into HCS. The PIN may be changed by the user.

Account Management: Paperless Director Accounts

Program Contact Coordinators (PCC), Organization Directors, and HCS Coordinators will now be able to add new Director accounts via a paperless

process. In an organization ***without a current Director or HCS Coordinator***, the new/initial Director must contact their DOH Program Commerce Coordinator (PCC) to set up the HCS Director account.

The PCC is the central point of contact and will collect the organization's information and facilitate its request for the initial Director account. The PCC will conduct the Director's identity proofing and verify the Director's authority to bind the organization to the HCS terms and policies for security and use.

When there is a current Director/HCS Coordinator that user has the responsibility and authority to verify the identity of a new Director and request a new Director account.

In either case, acceptable user identification documents are:

- NYS driver's license or driver's license issued by any state or territory of the United States (including the District of Columbia, Puerto Rico, the US Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands) or by a Canadian government authority.
- NYS Non-driver ID.
- US Passport or US Passport Card.
- Permanent Resident Card or Alien Registration Receipt Card (Form I-551).
- Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa
- Employment Authorization Document that contains a photograph (Form I-766).
- Foreign passport with Form I-94 or Form I-94A with Arrival-Departure Record.
- Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI.
- ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address.
- School ID card with a photograph.
- Voter's registration card.
- US military card or draft record.
- US military family members and US military retirees ID card.
- Native American tribal document.

Direct questions to the [HCS Account Management Unit \(CAMU\)](#) via email.

Reminder: Freelance Isn't Free

The “Freelance Isn't Free” law took effect on May 20, 2024. This state law is nearly identical to a similar New York City law in place since 2017. It provides new protections and recourses for independent contractors (freelancers) whose compensation is reported via IRS Form 1099.

Signed by Governor Hochul on November 23, 2023, the law protects freelance workers as independent contractors. In most cases, business relationships with freelancers now require a written contract, timely payment and conflict resolution, complaint procedures, and penalties.

Review Your Relationships

HCP urges members to look at ALL business relationships to ensure compliance with this new law. Consult your legal advisor when necessary.

Review your workforce and business transactions/relationships to determine which associates, if any, could be deemed freelance workers. Be sure your workers are properly classified as employees or independent contractors. Ensure contracts are in place where required.

Finally, review existing independent contractor agreements to make sure all requirements are met under the new law. Despite the law only applying to future, not current contracts, it's always advisable to do a “look back” so nothing gets missed upon contract renewals. Be sure the agreement terms are clear. Revise the contracts as necessary to meet the service terms and the Act's invoicing and payment dating requirements.

Details

The law requires that all independent contractors performing a job valued at \$800 or more must have the job documented via a written contract with the hiring organization. The \$800 threshold applies to a single job, OR multiple services totaling that amount in a 120-day period.

As of the effective date, a “freelance worker” is defined as a person or organization “...that is hired or retained as an independent contractor by a hiring party to provide services” in exchange for compensation. Further, a freelance

“organization” is composed of no more than one natural person, and there are no requirements for incorporation or the use of a business name.

Again, organizations consisting of more than one person are not considered freelance under this law. ***Note that sales representatives, attorneys, licensed medical professionals, and construction contractors are not considered freelancers under the provisions of the law.***

There are required elements for the written contract, which do not have to be in the freelancer’s native language. The written contract needs to include the parties’ names and mailing addresses, the services, and the rate of pay. The contract must list the required invoicing timeline and the payment date. The hiring party must provide the freelancer with a copy of the written contract and retain its copy for at least six years.

It was expected that the Department of Labor (DOL) would post a model contract to assist businesses with compliance under the new law. As of publication time, no model contract has been identified, and efforts to reach DOL regarding the availability of a model contract were unsuccessful.

Late Filing for EEO-1 Component 1 Data

The 2023 Equal Employment Opportunity Commission’s (EEOC) [2023 EEO-1 Component 1 data](#) collection closed on June 6, 2024.

There is still a window of opportunity for those who have not yet filed the data report. ***This “Failure to File” option will be open until July 9, 2024.*** HCP urges all members to submit this report as soon as possible.

Recent news reports outline the EEOC’s efforts to crack down on alleged non-filers, with 15 lawsuits being lodged by EEOC against businesses that did not report in 2021 and/or 2022. The EEOC has not sued an employer based solely on a failure to file an EEO-1 report since 2008.

In the lawsuit filings, the EEOC iterates that the agency is authorized by Congress to collect this data AND to take employers to court for non-compliance. In these cases, the EEOC is only asking the court to order the employers to submit past-due reports, to report on time going forward, to award court costs to the EEOC, and to award “such further relief as the Court deems necessary and proper in the public interest.”

The bottom line is: get this reporting done to avoid non-compliance, legal hassles, and unpredictable costs!

More Information

The [instruction booklet](#) and [File Upload Specifications](#) are available online and the Filer Support Message Center (Help Desk) is still open.

For decades the EEOC has required eligible employers to submit annual workforce demographic data. All private employers with 100 or more employees covered by Title VII of the Civil Rights Act must file the EEO-1 Component 1 Report. Certain federal contractors with 50 or more employees must also file the report under conditions of the US Department of Labor compliance regulations.

The EEO-1 collects employment data by seven race/ethnicity categories and ten job categories. Account holders must submit the employer's workforce demographic data electronically in the web-based portal (i.e., OFS) through either (1) manual data entry or (2) data file upload.

HCP Volunteer Nominations Due July 31

Help shape the future of home care by joining HCP's dedicated leadership team. Nominations are now being accepted for the HCP Board of Directors positions, and Public Policy Committee seats. Each position is a two-year term from November 1, 2024 to October 31, 2026.

Leadership is crucial for the success of any organization, and for 50 years, HCP has benefited from the dedication of volunteers on its Board of Directors. It's essential for HCP's success to continue recruiting the best and brightest leaders who will help strengthen the organization and develop strategies to address the challenges ahead.

- Chairperson of the Board: *Incumbent: James Rolla, VNS Health, Partners in Care*
 - Treasurer: OPEN
 - Vice Chairperson, CHHA: OPEN
 - Vice Chairperson, Consumer Directed Personal Assistance Services (CDPAS): *Incumbent: Jackie Datkun, South Shore Home Health Services*

- Vice Chairperson, Hospice: OPEN
- Health Related Organization (HRO) Representative: OPEN
- Associate/Allied Representative: OPEN
- Regional Officers
- Long Island: *Incumbent: Julian Hagmann, Caring Professionals*
- Northeastern NY: *Incumbent: Jen Barnett, Belvedere of Albany*

Serving on the HCP Board provides an opportunity for experienced leaders to share their insights and expertise to benefit the Association. It also provides a unique professional development opportunity for those who would like to become more knowledgeable and engaged in the broader home care industry, and who will become our future leaders.

Board members are expected to attend Board and Committee meetings, contribute to and support HCP and affiliate initiatives, and most importantly, be champions for the organization, and have an unencumbered ability to support HCP, its mission, and Principles of Conduct.

Public Policy Committee Members

As per the 2023 bylaw changes, each region may elect a candidate to the Public Policy Committee for a two-year term, with a maximum of two terms. At the HCP Board of Directors meeting on May 30, 2024, the regions were defined as follows:

Western NY: Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, Wyoming, Monroe, Livingston, Wayne, Ontario, Yates, Steuben, Seneca, Schuyler, Chemung, Cayuga, Tompkins, Tioga, Onondaga, Cortland, and Broome Counties

Northeastern NY: Albany, Clinton, Columbia, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, Warren, Washington, Dutchess, Orange, Putnam, Sullivan, Ulster, Otsego, Herkimer, St Lawrence, Jefferson, Lewis, Oneida, Oswego, Madison, and Chenango Counties

New York City: Bronx, Kings, Queens, New York, Richmond, Westchester, and Rockland Counties

Long Island: Nassau and Suffolk Counties

One seat per region is open for election at the Annual Membership Meeting,

Consider becoming an HCP Volunteer!

HCP's success depends on recruiting committed leaders who will help strengthen the organization, position HCP for the future, and develop strategies to address the continuing challenges for HCP and the home care industry. Please consider bringing your skills and expertise to the Board, or recommend a motivated individual for one of this year's open positions.

Nominations are due July 31, 2024

The HCP Nominating Committee will review nominations submitted by the deadline and select the final slate of officers and public policy committee members. Members will vote for Board members during the HCP Annual Membership Meeting just prior to the HCP 2024 Annual Management Conference & Exhibition.

[Access additional details](#) regarding the available Board seats, the nomination process, and the nomination form download. Questions may be addressed to [Kathy Febraio](#).

It's Time for HCP Award Nominations!

Nominations are now being accepted for HCP's 2024 Annual Awards! The awards will be presented on October 29 during the Annual Awards Luncheon at the 2024 HCP Annual Management Conference & Exhibition.

HCP has a long tradition of recognizing individuals and organizations that have shown exceptional leadership, involvement, passion, and dedication in support of HCP and the home care industry. It has become more evident than ever in the past year that many individuals deserve recognition for their efforts. Over the years, HCP has acknowledged the contributions of its members, as well as national, state, industry, and government leaders.

There are seven HCP Annual Awards, and not all awards are presented every year in order to preserve the spirit of excellence that they represent. The HCP Board believes it is important to bestow awards only to those that have demonstrated exceptional leadership on behalf of the industry and the Association.

HCP members play an important role in identifying those that deserve special recognition by submitting nominations for the awards.

- **Richard Z. Steinhaus Award** – An exceptional individual who has made outstanding contributions to the home care industry.
- **Founders' Spirit Award** – An individual that represents the spirit of the intrepid individuals who founded HCP and has demonstrated strong and successful efforts to promote awareness and appreciation of home and community-based services.
- **Edna A. Lauterbach Member of the Year** – HCP provider or Health-Related Organization (HRO) member who does the most to promote the interests and objectives of HCP.
- **Associate Member of the Year** – An HCP Associate member – either an individual or company – that does the most to promote the interests and objectives of the Association.
- **Elected Official of the Year** – State or Federal elected official that has done the most to advance the interests of home and community-based care.
- **Excellence in Public Relations** – An HCP provider member that has generated significant media coverage (newspaper, magazine, radio, television, Internet) raising awareness about the home care industry, important home care issues, or their agency.
- **HCP Award for Journalistic Excellence in Support of Home Care** – This Award is presented to a journalist, reporter or media outlet that has demonstrated a commitment to raising the positive awareness of the home care industry through its reporting and/or feature stories.

The deadline to submit nominations is July 31, 2024. [Learn more](#) about each award and find the nomination form.

Audit Uncovers \$1.5 Billion in Improper Medicaid Payments

A recent audit by the Office of the New York State Comptroller revealed that Medicaid managed care organizations (MCO) made \$1.5 billion in improper payments to unvetted physicians, hospitals, and pharmacies. The Department of Health (DOH/the Department) paid at least \$916 million to providers with mismatched IDs, \$832 million to those denied or removed from the system, and

nearly \$10 million to ineligible providers. One notable case involved \$57 million paid to a pharmacy twice denied for unclean conditions and expired medications.

In fiscal year 2023, the Department spent \$80.2 billion on Medicaid claims, over 60% of which went to managed care premiums, with the federal government covering half. The audit examined five managed care organizations, indicating that the problem is widespread.

New York's Medicaid spending rose 11% last year to \$35 billion, but the total costs of the program, including federal and local funds, exceeded \$100 billion. Despite federal mandates from 2018 requiring Medicaid provider enrollment to verify that the physicians and hospitals offering Medicaid services were credible, the audit found that payments to non-enrolled or rejected providers persisted.

A spokesperson for the Department cited system limitations predating the federal requirements as a flaw in the comptroller's analysis. However, the comptroller's office criticized this as a deflection, stressing that non-enforcement of federal rules risks patient safety and taxpayer funds.

Comptroller Thomas DiNapoli recommended the Department review payments to unenrolled providers, update managed care network guidelines, and improve enrollment monitoring, all of which DOH agreed to implement.

Change Healthcare Cyber Breach Update

In February 2024, Change Healthcare/Optum experienced a cybersecurity breach, affecting numerous health care providers across the United States. The breach has prompted a series of notifications and procedural changes.

Breach Notification Process

Officials from the Department of Health and Human Services' (HHS) Office for Civil Rights have stated that health care companies affected by the Change Healthcare data breach may delegate the patient notification process to the insurer. Federal law mandates that health care providers must inform clients within 60 days when their data may have been compromised. The HHS has acknowledged that this notification requirement has not been met, stressing that a mere web posting does not suffice; each affected patient must be individually alerted.

United Health, which has been handling notifications, has indicated that due to the complexity of the data review process, notifications may take several months. Their incident webpage, last updated in late April, offers information and support for potentially affected individuals. For additional resources, individuals can visit the [dedicated support website](#) or contact the incident call center at 1-866-262-5342 for information on free credit monitoring and identity theft protection.

Guidance for Submitting Claims

Providers impacted by the incident may submit claims that exceed timely filing limits using Delay Reason 15 (Natural Disaster) until August 30, 2024. For such claims, no additional documentation is required unless specific claims necessitate it, such as pricing invoices. Providers must submit the claim and required documentation on paper, accompanied by the delay reason form indicating Delay Reason 15. Providers must retain documentation proving their impact from this incident.

Claims not related to the Change Healthcare/Optum cybersecurity incident and submitted with Delay Reason 15 will be denied. Submitting ineligible claims with Delay Reason 15 is prohibited and may be considered Medicaid fraud, subject to review by the Office of the Medicaid Inspector General.

For general inquiries about claim submissions contact the eMedNY Call Center at 1-800-343-9000. For questions regarding specific claims pending review, contact the Bureau of Medical Review, Pended Claims Unit at 1-800-342-3005 (option 3).

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Better Training, Better Care