



# This Week in New York

Covering New York State and City Government

A Publication of Pitta Bishop & Del Giorno LLC

September 20, 2019 Edition



## In the News – State

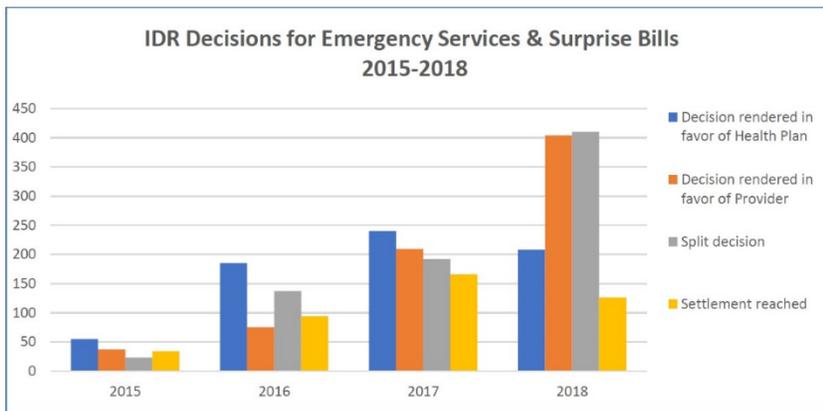


### Out-of-Network Law Saves NYers More Than \$400 Million in Surprise Health Insurance bills

New York's Out-of-Network (OON) law, which protects consumers from emergency and surprise bills from out-of-network doctors and other healthcare providers, has saved New Yorkers more than \$400 million with respect to emergency services, according to a report issued this week by the State Department of Financial Services (DFS).

Under the OON Law, enacted in 2014, consumers are taken out of disputes over out-of-network emergency and surprise bills. Health plans and providers can use the Independent Dispute Resolution (IDR) process to resolve such billing disputes.

According to DFS, consumers are held harmless under the OON Law, which includes other consumer protections including protection from surprise bills, improved disclosure, extended network adequacy requirements, minimum OON coverage to be made available to consumers, expanded external appeal rights, and easier claims submission.



The DFS report issued this week found that between 2015 and 2018, a total of 2,595 decisions were rendered, and the number has been steadily increasing, from 149 in 2015 to 1,148 in 2018. Savings from the law were generated by a reduction in costs associated with emergency services and an increased incentive for network participation. Out-of-network billing was reduced by 34%.

The most common specialty for disputes involving emergency services in 2015 to 2018 was plastic surgery, followed by emergency medicine and orthopedic surgery.



## Chapters of the Laws of 2019

**Chapter 257 – Sponsored by M of A Cahill / Senator Metzger** -- Provides that election workers shall be given special ballots as soon as such ballots are printed.

**Chapter 258 – Sponsored by M of A Paulin / Senator Hoylman** -- Relates to adoption by a petitioner where such petitioner's parentage is legally-recognized.

**Chapter 261 – Sponsored by M of A Rozic / Senator Sepulveda** -- Relates to personal phone calls for inmates in certain circumstances.

**Chapter 263 – Sponsored by M of A Lavine / Senator Hoylman** -- Establishes the right of tenants to call police or emergency assistance without fear of losing their housing.

**Chapter 264 – Sponsored by M of A Dickens / Senator Sanders** -- Relates to assessment of the record of performance of banking institutions in helping to meet the credit needs of local communities.

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**Chapter 265 – Sponsored by M of A Zebrowski/ Senator Sanders** -- Expands the length of time to pay delinquent taxes in installments to thirty-six months.

**Chapter 266 – Sponsored by M of A Cusick / Senator Robach** -- Provides a program to promote leukemia, lymphoma and myeloma research, education and treatment and establishes the leukemia, lymphoma and myeloma research, education and treatment fund.

**Chapter 274 – Sponsored by M of A Weprin / Senator Sepulveda** -- Relates to permitting legislative staff to visit correctional facilities.

**Chapter 279 – Sponsored by M of A Paulin / Senator Bailey** -- Relates to treatment programs and treatment court during interim probation supervision.

**Chapter 285 – Sponsored by M of A Magnarelli / Senator Kennedy** -- Relates to the state single audit program.

**Chapter 285 – Sponsored by M of A Dinowitz / Senator Hoylman** -- Relates to terms and conditions of employment of certain nonjudicial officers and employees of the unified court system.

**Chapter 290 – Sponsored by Senator Gianaris / M of A Blake** -- Relates to the presidential primary, to provide for the election of delegates to a national party convention or a national party conference in 2020.

**Chapter 297 – Sponsored by Senator Skoufis / M of A Zebrowski** -- Relates to establishing beneficial ownership for limited liability companies.

**Chapter 298 – Sponsored by Senator Rivera / M of A Bichotte** -- Authorizes expedited partner therapy for certain sexually transmitted infections.

**Chapter 309 – Sponsored by Senator Rivera / M of A Gottfried** -- Authorizes human research in compliance with federal law.

**Chapter 310 – Sponsored by Senator Bailey / M of A Jaffee** -- Relates to adjustment of juvenile delinquency cases by local departments of probation in the family court.

**Chapter 314 – Sponsored by Senator Krueger / M of A Weinstein** -- Amends the Capital Projects budget.

**Chapter 315 – Sponsored by Senator Biaggi / M of A Simotas** -- Relates to statutes of limitations for certain sex crimes.

## ***In the News – City***



### **2020-2024 MTA Capital Plan**

The Metropolitan Transportation Authority (MTA) this week released the 2020-2024 Capital Plan that proposes investing \$51.5 billion into the region's subways, buses, and railroads over the next five years. The proposed level of investment is the highest in the MTA's history, increasing spending on infrastructure by 70% over current levels.

“This proposed 2020-2024 Capital Program – the most ambitious capital plan in the agency's history – builds on the success of the Subway Action Plan, and with new tools such as Design-Build and the reorganization that is underway we're certain we can deliver for our customers,” said Patrick J. Foye, MTA Chairman & CEO.

The proposed plan will be reviewed by the MTA Board at its meeting on September 25 and, if approved, would be submitted by October 1 to the MTA Capital Program Review Board for consideration and approval. The review board is composed of representatives from the Governor, the New York State Senate and Assembly, and the Mayor of New York City. The details of the projects included the proposed capital program are available at <https://New.mta.info/2020CapitalProgram>.

Funding for the Capital Plan includes:

- \$15 billion from central business district tolling included in the State's FY 2020 budget.
- \$10.68 billion from federal funding programs.
- \$10 billion from bonds backed by the state tax on high-end real estate sales and the elimination of the internet tax advantage included in the State's FY 2020 budget.
- \$3 billion pledged by Governor Andrew Cuomo subject to approval by the legislature.
- \$3 billion match requested by the City of New York.
- \$9.8 billion from the MTA via pay-as-you-go capital contributions and bonds backed by dedicated taxes, fares and revenues from existing tolling.

The plan projects and funding include:

**NYC Transit | \$37.3 billion | including:**

**Signal Modernization** | \$7.1 billion | Service upgrades to six subway lines, including the Lexington Avenue Line, serving more than 50% of riders.

**Subway Cars** | \$6.1 billion | 1,900 new subway cars would be added.

**Station Accessibility** | \$5.2 billion | Accessibility upgrades to 70 stations so that no customer will be no more than two stations away from an accessible station; stations serving over 60% of passengers would be accessible.

**Station Improvements** | \$4.1 billion | Repair at 175 stations, including replacement of 78 elevators and 65 escalators.

**Track Upgrades** | \$2.6 billion | Replace 60 miles of track and install 20 miles of continuous welded rail.

**Second Avenue Subway (SAS) Phase 2** | \$4.55 billion | Completion of the final installment of the SAS project, financed with approximately 50% federal funds and 50% MTA resources. The MTA would build three new fully accessible stations across the SAS line, and a new connection with Metro-North Railroad.

**MTA New York City Buses | \$3.5 billion | including:**

Purchase of 2,400 new buses, depot improvements and accelerates the transition to a fleet of fully of zero-emissions electric buses.

**MTA Long Island Rail Road | \$5.7 Billion | including:**

The proposed capital plan makes the investments necessary for the planned December 2022 opening of East Side Access and Main Line Expansion. East Side Access will allow more than 160,000 daily customers to travel to Grand Central Terminal. Main Line Expansion will add a third track on 10 miles of the Main Line corridor. These projects, along with Jamaica Capacity Improvements, will enable a 60% increase in reverse commute and a 50% increase in peak service between Manhattan and Long Island. Priority investments in the proposed capital program include track, station improvements, signals and switches, and rolling stock.

**Track Upgrades** | \$1 billion | Install concrete ties and continuous welded rail to increase durability, reliability and customer comfort. Upgrade and reconfigure infrastructure at Jamaica.

**Station Accessibility and Improvements** | \$910 million | Make seven additional stations accessible in accordance with the Americans with Disabilities Act; 93% of stations, serving 97% of customers.

**Signals and Switches** | \$364 million | Replace 32% of switches, 21% of track circuits and 11% of grade crossing equipment at the locations with highest maintenance needs.

**Rolling Stock** | \$487 million | Purchase 160 M9A new electric cars, expanding the fleet by 13%.

**MTA Metro-North Railroad | \$4.7 billion in New York State | including:**

The proposed program advances New Haven Line access to Penn Station via four new stations in the Bronx, begins reconstruction of the Grand Central Terminal train shed and Park Avenue tunnel and viaduct, begins replacement of Metro-North's fleet of M3 rail cars, improves stations, prepares for capacity improvements on the Harlem Line and Port Jervis Line.

**Grand Central Terminal Trainshed and Park Avenue Tunnel and Viaduct** | \$895 million | Pursue Phase 1 of the replacement of the 100+ year old structures and build four new emergency exits.

**Stations Accessibility and Improvements** | \$621 million | Add accessibility improvements at up to four stations, bringing wheelchair access to 78% of stations serving 93% of customers, renew stations on the Harlem Line in the Bronx and southern Westchester County, and make priority component repairs at stations on the upper Hudson Line and upper Harlem Line.

**Rolling Stock** | \$485 million | Replace 140 M3 electric cars.

**MTA Bridges and Tunnels | \$3.3 billion | including:**

**Verrazzano-Narrows Bridge Upgrades** | \$1.1 billion | Rebuild Verrazzano-Narrows Bridge approach ramps; the non-standard left-hand exits will be modernized and reconfigured to right-hand exits. The plan funds the widening of two miles of the eastbound Belt Parkway.

**RFK Bridge Upgrades** | \$719 million | Rebuild the Randall's Island access ramps, and design a widening of the southbound FDR Drive between 125<sup>th</sup> Street and 116<sup>th</sup> Street and a new access ramp from the Bruckner Expressway to the RFK Bridge.

**Throgs Neck Bridge Marine Protection** | \$144 million | Construction of new fender systems at the Throgs Neck Bridge's two towers would protect the bridge from accidental collisions from marine traffic.

**Tunnel Ventilation** | \$58 million | Rehabilitation of ventilation/service buildings at the Queens-Midtown Tunnel and the Hugh L. Carey Tunnel, and the design of water mist/fire suppression systems installation

The MTA is also planning projects at the The Triborough Bridge and Tunnel Authority (TBTA) totaling \$3.3 billion. Specifically, the MTA will construct the infrastructure needed for central business district tolling and brings safety and traffic flow improvements to the MTA's crossings TBTA spending is not subject to CPRB approval and is not included the \$51.5 billion CPRB total.

# Briefs

## **New York's Ban on Flavored E-Cigarettes Now in Effect**

New York State is the first state in the nation to implement a ban on the sale of flavored electronic cigarettes and nicotine e-liquids, following a vote on emergency regulations by the Public Health and Health Planning Council.

Retailers would face fines of up to \$2,000 per violation. The emergency regulations, which take effect immediately and will last for 90 days unless extended, ban flavors including fruit, chocolate, mint, wintergreen and herb or spice, among others. The PHHPC, however, exempted tobacco and menthol flavors from the ban.

The ban takes effect immediately, but retailers are being given a two-week grace period before enforcement begins on October 4, according to Governor Cuomo's office.

## **Attorney General James Secures \$450,000 For 100 Home Health Aides Threatened With Deportation**

Attorney General Letitia James announced that Allcare Homecare Agency, Inc., a New York-based home health aide company, will pay \$450,000 in cash and benefits to over 100 workers for cheating them out of wages, and for unlawfully threatening deportation consequences against immigrant workers when they complained about unpaid wages.

An investigation conducted by the Office of the Attorney General (OAG) found that Allcare did not pay workers properly under the New York Labor Law, the New York Homecare Worker Wage Parity Act, and the New York Earned Sick Time Act. In particular, the investigation revealed that Allcare failed to pay aides working 24-hour shifts for every hour they worked and failed to offer legally required paid leave policies. OAG also found that Allcare retaliated against certain immigrant workers by threatening to call immigration authorities when these workers sought their unpaid wages in violation of the New York Labor Law and the New York City Human Rights Law. The case was referred to OAG by TakeRoot Justice (formerly The Community Development Project of the Urban Justice Center), and the National Mobilization Against Sweatshops (NMASS).

In addition to the monetary compensation, Allcare agreed to work with OAG to develop policies that fully comply with the law, particularly in light of the recent New York Court of Appeals decision in *Andryeyeva v. New York Health Care, Inc.* regarding proper compensation for workers who perform 24-hour shifts.

## Governor Signs Legislation Extending Rape Statute of Limitations in the Second and Third Degrees

Governor Andrew Cuomo this week signed legislation (Chapter 315) extending the statute of limitations to 20 years for rape in the second degree and to 10 years for rape in the third degree. The law also extends the statute of limitations to 20 years for a criminal sexual act in the second degree and incest in the second degree, and to 10 years for a criminal sexual act in the third degree. Finally, the law eliminates the statute of limitations for incest in the first degree and increases the time period in which victims can bring a civil suit for these offenses to 20 years.

Prior to this new law, victims only had five years to bring a legal case alleging rape in the second degree or third degree or a criminal sexual act in the second degree or third degree.

## Winners of Buffalo Skyway Corridor Competition

Governor Andrew Cuomo announced this week the winning entry for the Buffalo Skyway Corridor Competition. The winning bid “City of Lights” was designed by SWBR, Fisher Associates and MRB Group from Rochester, New York. The Rochester bid will receive \$100,000 from the State in prize money.

The winning prize proposes removing the 1950’s built Skyway, transferring traffic patterns over new facilities, and preserving a piece of the Skyway as a new park for views and other amenities.

The expected total budget for the project is \$600 million. The state will expedite the Environmental Impact Statement in under two years and has committed \$10 million. Funding for the project must still be appropriated by Congress and the State Legislature. The State proposed the usual federal funding at 80% and State funding at 20%. The proposed project is projected to be completed within the next five to six years.

## NY Announces Start of 2019 Fall Foliage Season



Empire State Development (ESD) announced the start of New York’s 2019 fall foliage season. Starting this week, ESD began sending out the weekly I LOVE NY fall foliage reports. The reports include a detailed map charting fall color progress and suggested vantage points for enjoying the color change.

Reports are provided every Wednesday through the end of the foliage season and are available on the I LOVE NY [website](#) with recommended autumn getaways and weekly event listings.

## **New York Mayor Bill de Blasio Drops Out of Race for 2020 Democratic Presidential Nomination**

New York City Mayor Bill de Blasio today ended his campaign to win the Democratic Party's 2020 presidential nomination. "I feel like I've contributed all I can to this primary election," he told MSNBC's "Morning Joe." "And it's clearly not my time. So I'm going to end my presidential campaign."

## **23 States Sue Trump to Keep California's Auto Emission Rules New York State and New York City Join the Lawsuit**

California and 22 other states today filed a lawsuit to stop the Trump administration from revoking the California's authority to set emission standards for cars and trucks, according to published reports. The suit was filed in response to regulations released yesterday by the National Highway Traffic Safety Commission to pre-empt a state's authority to set emission levels.

Joining California in the lawsuit are attorneys general from Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Massachusetts, Maryland, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington and Wisconsin. The District of Columbia and the cities of New York and Los Angeles also joined the lawsuit.

Federal law sets standards for how much pollution can come from cars and trucks. The federal government granted California the authority to set its own standards.

# ***Coming Up***

## ***New York State***

***Tuesday September 24<sup>th</sup>***

### **New York State's Response to Federal Government Shutdowns**

Joint Senate Standing Committee on Investigations and Government Operations, Assembly Committee on Governmental Operations, & Assembly Legislative Commission on Government Administration  
Assembly Hearing Room, 250 Broadway, Room 1923, 19<sup>th</sup> Floor, New York, 11 a.m.

## ***New York City***

### ***Monday September 23<sup>rd</sup>***

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

***Committee on Civil Service and Labor***, Council Chambers – City Hall, 10:30 a.m.

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

***Committee on Contracts***, Committee Room – 250 Broadway, 14<sup>th</sup> Floor, 1 p.m.

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

### ***Tuesday September 24<sup>th</sup>***

***Committee on Women and Gender Equity***, Council Chambers – City Hall, 10 a.m.

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

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

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

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

***Committee on Rules, Privileges and Elections***, Council Chambers – City Hall, 10:30 a.m.

***City Council Stated Meeting***, Council Chambers – City Hall, 1:30 p.m.

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

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

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

***Subcommittee on Capital Budget***, Committee Room – 250 Broadway, 14<sup>th</sup> Floor, 10 a.m.

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

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

***Committee on Higher Education***, New Science Building and STEM Initiatives at Lehman College – 250 Bedford Park Blvd West, Bronx, 1 p.m.

***Committee on Parks and Recreation***, Committee Room – City Hall, 1 p.m.

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

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**To Our Clients:** If you have any questions regarding any of the matters addressed in this newsletter, or regarding any legislative, government relations or political or consulting or related issues in general, please contact the Pitta Bishop & Del Giorno LLC professional with whom you usually work.

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