



This Week in New York

Covering New York State and City Government

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In the News – New York State

FMAP Contingency Plan Goes Into Effect

General Fund payments reduced by 1.1% Effective September 16th

In accordance with the FMAP Contingency Plan passed with the State's 2010-2011 budget, most local assistance payments from New York's General and State Special Revenue Funds will be reduced by 1.1 percent effective September 16. The cuts apply to a variety of funding, including Medicaid, Health Care Reform Act funds, grants, and member items.

Chapter 313 of the Laws of 2010 established the FMAP Contingency Plan to address a \$1.085 billion gap in the state budget. The legislation directed the State Division of the Budget to reduce local assistance payments in the event Congress did not provide \$1.085 billion in FMAP relief to the State for the current fiscal year (April 1, 2010 to March 31, 2011). Congress subsequently provided approximately \$800 million in FMAP funding and \$607 million in education funding. However, because the FMAP funding did not total the \$1.085 billion specified in the State FMAP Contingency Law, the State has begun implementing an across-the-board cut to make up the remaining \$281 million.

Budget Director Robert Megna this week released the contingency plan to State agencies and informed State legislators of the reductions.

"DOB intends to end the payment reductions when net savings of \$281 million has been realized, which may occur before the end of the fiscal year," Mr. Megna explained.

The across-the-board cuts apply to all General Fund and Special Revenue Fund spending except for very specific exemptions laid out by the Plan. According to information provided to legislators, the following list summarizes the exemptions that are not subject to uniform reductions:

- Public Assistance/ Supplemental Social Security
- City University: Senior Colleges/ Joseph Murphy Institute
- Blind Veteran Annuity Assistance
- Metropolitan Transportation Authority Mobility Tax
- Court Orders/Judgments
- Court Facilities Incentive Aid: Interest/Debt Payments
- Debt Obligations of Certain NFP Providers (licensed by Mental Hygiene Agencies)
- DHCR Periodic Subsidies Local Areas (related to Debt Service)
- Medicare Claw-back Part D

- Federal Payments for Duly Eligible Recipients (SMI Part A &B)
- School Aid Payments for Teacher Retirement System/Teacher Pension Costs
- New York Interest on Lawyer Account Escrow Funds (non-General Fund)
- Charter Schools (non-General Fund)
- VESID Case Services/Supported Employment/Worker's Compensation Fund/Social Security
- Office of Management Grants Services (private bequests and donations for SED)
- Final Medical Assistance Program payments will include exemptions for certain non-State funded payments including indigent care and UPL payments, certain recipient groups including Native Americans and certain provider payments as required under Federal law including payments to Federally Qualified Health Centers.

The Senate Democrats have introduced legislation (S8479) to repeal the FMAP Contingency Plan. The legislation has not been introduced in the Assembly and there has been no formal announcement to bring the Legislature back to Albany.

Yesterday, State Comptroller Thomas DiNapoli warned that the State is “not out of the woods yet” in terms of fiscal solvency. Despite a midyear positive General Fund Balance of over \$500 million, “the General Fund has maintained a negative daily cash balance every day since September 3.”

Governor's Traffic Safety Committee Awards \$3 Million for Interlock Supervision

The State Division of Criminal Justice Services (DCJS) will receive a one-time, \$3 million award from the Governor's Traffic Safety Committee (GTSC) to provide grants to counties to assist with the oversight of persons required to install ignition interlock devices in their vehicles as a provision under the State's Child Passenger Protection Act. The funds will be dispersed by DCJS to counties statewide pending final approval by the Office of the New York State Comptroller.

The State's Child Passenger Protection Act requires all drivers convicted of misdemeanor and felony drunk driving charges to install and maintain ignition interlock devices at their own expense on any vehicles they own or operate for a minimum of six months. Each county will assign a monitoring entity that will oversee the installation of the ignition interlock device and compliance with its use. The award money will be dispersed based on each county's impaired driving convictions.

According to Governor David Paterson, approximately 2,000 drivers in New York State currently have court-ordered ignition interlock devices. Under this provision of the State's Child Passenger Protection Act, it is estimated that 25,000 drivers statewide will be required to install and maintain ignition interlocks at their own expense annually. An interlock device costs between \$75 and \$100 to install, coupled with a monthly fee ranging from \$70 to \$100.

In the News – New York City

New York City Businesses Poised to Get Regulatory Relief

City Council Approves legislation to Ease Regulatory Burden

Legislation (Introduction 91-A) requiring the City Law Department and the Mayor's Office of Operations to review every proposed rule to ensure that it is not unduly burdensome, clear, and easy to understand has been passed by the City Council this week.

Sponsored by Council member James Oddo and others, the legislation would also require city agencies to solicit public comments when proposing a new administrative rule. Previously, agencies were only required to place a notice in the City Record before making rule changes.

This legislation is, in part, a product of the work of the Panel on Regulatory Review (“Panel”). The Council formed the Panel in order to modernize the rulemaking process, with the specific goals of enhancing public participation and identifying and fixing systemic problems with existing rules and regulatory implementation. The Panel received input from well over 200 small business owners, industry representatives, and other stakeholders through outreach sessions with business owners in all five boroughs, meetings with various industry and civic groups, and written comments from the general public.

In addition to Councilmember Oddo, the Panel’s members include Council Members Leroy Comrie, Diana Reyna and Karen Koslowitz; Counselor to the Mayor and Panel Chair Anthony Crowell; Corporation Counsel Michael Cardozo; Small Business Services Commissioner Robert W. Walsh; Mayor’s Office of Management and Budget Director Mark Page; Consumer Affairs Commissioner Jonathan Mintz; and Mayor’s Office of Special Enforcement Director Shari Hyman.

Under the legislation, the Law Department would be required to state whether each proposed rule: (a) is drafted to accomplish the purpose of the authorizing provisions of law; (b) is not in conflict with other applicable rules; (c) is narrowly drawn to achieve its stated purpose; and (d) contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

The Mayor’s Office of Operations would be required to analyze each proposed rule and state: (a) whether such rule is understandable and written in plain language; and (b) how the drafting process of the rule included analysis sufficient to minimize the compliance costs for the regulated community consistent with achieving the stated purpose of the rule.

The legislation now goes to Mayor Michael Bloomberg for consideration.

State Finds NYC DOE Makes Great Strides in Children's Nutrition

The New York City Department of Education (DOE) has made significant progress in correcting deficiencies in the Department of Education's Office of School Food, which administers the School Meals Program, according to a report released by State Comptroller Thomas P. DiNapoli. The report follows up a June 2009 Comptroller audit which found that school food was contributing to childhood obesity.

"Selling junk food to kids on school grounds, when the state's childhood obesity rate is over 25 percent, isn't the best way to help kids stay healthy," Comptroller DiNapoli explained. "DOE is doing a good job implementing my audit's findings and improving the health of city students. It's a first step toward a healthier New York City."

Last year's audit found that junk food was routinely sold in city schools, undermining efforts to promote healthy eating habits among students. The auditors found that school stores and vending machines at 20 of the 30 city schools visited sold candy, soda, and other unhealthy snacks during lunch periods in direct violation of the Chancellor's policies.

The audit recommended that DOE take action to immediately stop the sale of competitive foods in school stores and vending machines prior to the end of the last school lunch period. The audit recommended that DOE provide better oversight regarding the types of food sold at school stores and in vending machines. The audit also made recommendations aimed at improving DOE oversight and school compliance with required policies.

In implementing Comptroller DiNapoli's recommendations, the DOE:

- ▶ Required staff to only use menus approved by School Food;
- ▶ Prohibited the sale of unhealthy items from vending machines and school stores during the school day;
- ▶ Installed timers to regulate when vending machines operate;
- ▶ Established new contracts for vending machines that sell only nutritious snacks;
- ▶ Modified School Food listing of approved snack items to include the product serving size;
- ▶ Established procedures for monitoring and reporting school compliance; and
- ▶ Provide training for Principals and School Food staff on the DOE's Wellness Policy and the need to comply with the Policy.

In Brief

Comptroller DiNapoli Approves VLT Contract

State Comptroller Thomas P. DiNapoli this week announced he has approved the contract with Genting New York, LLC for a video lottery facility at Aqueduct Race track. The contract was returned to the State Lottery Division with the Comptroller's approval and was effective September 13, 2010.

"This is one of the most important vendor contracts New York has ever signed," Comptroller DiNapoli explained. "The VLT contract involves hundreds of millions of dollars. It's a 30-year license that carries the future of New York's racing industry on its back. My office did this right and we did it expeditiously without sacrificing thoroughness."

Report Storm Damage to Your Home or Business to 311

According to the City Office of Emergency Management, in order to qualify for disaster relief assistance, the city must estimate the storm's total effect on city residents and employees. The City is asking residents to call 311 to report any damage to your home or business sustained from last night's storm. Please be prepared to answer questions about the extent of your property's damage.

In addition, the New York State Insurance Department has activated its Disaster Hotline to help consumers with insurance questions following the wind storm that caused extensive property damage Thursday evening in the New York City metropolitan area. The Disaster Hotline, 1-800-339-1759, will be staffed from 9 a.m. to 4:30 p.m. Monday through Friday. In addition consumers may reference the Insurance Department's website, www.ins.state.ny.us, to obtain information on property and automobile insurance. Consumers may use the website to file complaints in the event they have disputes with insurance companies.

Additional assistance may be obtain via the NYC Public Advocate Office: 212-669-7200 or Publicadvocate.nyc.gov. To report power outages or downed power lines, call Con Edison: 1-800-75-ConEd or visit ConEd.com

City Council Approves Silver Alert Legislation

The City Council this week passed legislation (Introduction 270A) to create an emergency alert to help find missing seniors with Alzheimer's or other cognitive impairments. Sponsored by Council members Lappin et al, the legislation would authorize the City to create a Silver Alert to notify the public, through the use of media outlets, such as television and radio broadcasts that a senior with cognitive impairments is missing. The legislation now goes to Mayor Michael Bloomberg for consideration.

Currently, 28 states have Silver Alert programs in place. New York State does not currently have a program in place, but Nassau and Suffolk Counties enacted their own Silver Alert programs in 2009.

Legislation Aims to Protect New Yorkers from Secondhand Smoke in Public Parks and Beaches

Councilmember Gail Brewer this week introduced legislation (Introduction 332) to expand the Smoke Free Air Act in New York City to include parks and beaches. Currently, smoking is prohibited in indoor workplaces and park playgrounds. In an effort, to protect the public from the health effects of tobacco smoke, the proposed law will go a step further and not allow smoking in parks, beaches, marinas, boardwalks and pedestrian plazas. Council member Brewer was joined at a press conference announcing the legislation by Mayor Michael Bloomberg and Council Speaker Christine Quinn.

“New York is the national leader in creating healthy cities, and promoting a healthy life style,” said Council Member Gale A. Brewer. “That’s why we’re pushing to get butts off the beaches. And it’s not just a health issue, as any beachgoer knows: despite the clean-up efforts of the Parks Department, the sand is too often used as an ashtray.”

Coming Up

New York City

Monday, September 20

Select Committee on Libraries & Committee on Cultural Affairs, Libraries and International Intergroup Relations, 250 Broadway - Committee Rm, 14th Fl., 10 a.m.

Oversight - How can Public Libraries Provide Underserved Communities with Accurate and Relevant Information on Cancer and other Health Related Issues?

Committee on Parks & Recreation, 250 Broadway - Committee Rm, 14th Fl., 10 a.m.

Oversight - Keeping Pedestrians and Park Users Safe from Damaged Trees.

Committee on Civil Service & Labor, 250 Broadway - Committee Rm, 14th Fl., 1 p.m.

Tuesday, September 21

Subcommittee on Zoning and Franchises, 250 Broadway - Committee Rm, 16th Fl., 9:30 a.m.

Committee on Contracts, 250 Broadway - Committee Rm, 14th Fl., 10 am.

Committee on Housing and Buildings, 250 Broadway - Hearing Rm, 16th Fl., 10 a.m.

Subcommittee on Landmarks, Public Siting and Maritime Uses, 250 Broadway, 16th Fl., 11 a.m.

Subcommittee on Planning, Dispositions and Concessions, 250 Broadway - Committee Rm, 1 p.m.

Committee on Youth Services, 250 Broadway - Committee Rm, 14th Fl., 2 p.m.

Wednesday, September 22nd

Committees on Higher Education & Immigration, 250 Broadway - Committee Rm, 14th Fl., 10 a.m.

Committee on Consumer Affairs, 250 Broadway - Committee Rm, 16th Fl. , 1 p.m.

Committee on Transportation, 250 Broadway - Hearing Rm, 16th Fl, 1 p.m.

Committee on Mental Health, Mental Retardation, Alcoholism, Drug Abuse and Disability Services & Committee on Veteran Services, 250 Broadway - Committee Rm, 14th Fl., 1 p.m.

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