



This Week in New York

Covering New York State and City Government

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In the News

Governor Readies to Weigh in on Affordable Care Act

Bill to Exempt Freelancers Union Insurance Plan from ACA Awaits His Signature

As the ink dried on New York's approval of its Affordable Care Act (ACA) Health Benefit Exchange rates, the State Assembly asked Governor Andrew Cuomo to consider legislation to exempt the Freelancers Union health plan from the ACA benefit requirements.

In June, the Assembly and Senate approved a bill to extend Freelancers' Union Insurance Plan demonstration program for another year and allow it to self-fund, exempting the group from the ACA benefit requirements. On July 19th, the Assembly delivered the bill to Governor Cuomo, two days after his announcement that New York's Health Care Exchange will offer individual health insurance plans at rates 50% less than currently available.

The Exchange will include the Freelancers CO-OP plan which will be a coverage option for eligible freelancers. According to the monthly individual rates released last week by DFS, Freelancer Co-Op Exchange Rate for New York City were: Platinum: \$523.23; Gold: \$445.93; Silver: \$394.58; Bronze \$ 311.77; and Catastrophic: \$214.32. The FIC plan currently provides a tiered plan with rates ranging from \$603 to \$225.

However, according to sponsors Assembly Speaker Sheldon Silver and Senate Health Committee Chair Kemp Hannon, the Freelancer's Union asserts that the ACA failed to incorporate any exceptions for existing insurance demonstration programs such as FIC that were designed to make affordable coverage available to independent workers with middle incomes.

Union representatives estimate that a large percentage of Freelancers' Union health plan enrollees will not be eligible for subsidies to purchase insurance on the exchanges or will receive the minimum amount available — likely putting affordable coverage out of reach, according to published reports.

The group's letter in support of the bill indicates that ACA will cost its members \$38 million a year with possible per-person premium hikes of \$178 a month and cause it to rework its benefit structure.

These concerns echo those currently heard from labor on the federal level. The Laborers' International Union of North America, which represents more than 500,000 workers in construction and other industries, sent a letter to President Barack Obama asserting that the act will have "destructive consequences" for health plans that cover millions of workers and their families. Teamsters boss James Hoffa warned that the law will "shatter not only our hard-earned health benefits, but destroy the foundation of the 40-hour workweek" and the 750,000-member International Brotherhood of Electrical Workers released an advertising campaign calling on the President to "repair and reform" the ACA.

To mitigate these impacts, the Freelancers Union sought State legislative relief.

The bill would continue the freelancers' demonstration program, which was first established in 2009, and through December 2014. In addition, the legislation would allow the union to move their coverage from Freelancers Insurance Company (FIC) to a newly created self-insured health fund called Freelancers Health Plan. According to the legislative support memo, the new Plan would offer at least one plan that complies with the ACA requirements and, upon approval from CMS, its offerings would be considered Minimum Essential Coverage.

Business groups across New York have come out in opposition to union carve-out legislation, citing that it would create inequity across industries.

Governor Cuomo has until midnight July 31st to consider the bill. (As of publication, he has not yet acted on the legislation). The current program expires at the end of the year.

Department of Financial Services Uses “Gap Authority” to Regulate Debt Collection Practices

Utilizing “gap authority” to regulate a currently unregulated industry, New York Superintendent of Financial Services Benjamin M. Lawsky this week released draft regulations aimed at reforming the debt collection industry.

The reforms are included in a new proposed regulation that the New York State Department of Financial Services (DFS) is issuing through the first use of its ‘gap authority.’ This ‘gap authority’ was included in the law that Governor Andrew Cuomo signed in 2011 creating DFS. It gives the Department the ability to regulate and enforce rules against previously unregulated providers of financial products and services.

Currently, debt collection practices are subject to the Fair Debt Collection Practices Act which is enforced by the Federal Trade Commission.

State legislators have long sought to regulate the debt collect industry. A search of the Legislative Retrieval System yields bill introductions back to 1995 (as far back as the database goes). Measures, including proposals to register debt collection agencies and create a private right of action for improper practices, were passed in the Assembly in 2007 through 2011.

In 2013, Senators Jose Peralta, Daniel Squadron, John Sampson, Michael Gianaris, and Bill Perkins and Assemblymember Jeffrey Dinowitz introduced bills.

According to Superintendent Lawsby, these reforms will help cut down on repeated, harassing phone calls from debt collectors; guard against the collection of ‘zombie debts’ that have already expired; and prevent situations where companies try to collect debts from the wrong consumer for the wrong amount of money.

Complaints about deceptive and abusive debt collection practices are among the most frequent financial complaints filed by consumers nationally and in New York, Superintendent noted. In the last eighteen months, New Yorkers filed more than 13,000 complaints about debt collection practices.

DFS’s new proposed regulation includes the following key reforms:

- ***Better Disclosures and Transparency.*** The regulation sets standards for the information that must be provided to a consumer when debt collection activities begin, including providing a breakdown of each charge and fee added to the debt and each payment made after charge off.
- ***Protections against Collection of ‘Zombie Debts.’*** Under this new regulation, if a debt collector tries to collect on a debt after the statute of limitations has expired, the collector will need to inform the consumer, in every communication, that the statute of limitations has expired and the consumer can use that as a defense against a collection lawsuit.
- ***Verifying the Debt Is Actually Owed.*** This regulation would put in place procedures to require a debt collector to verify the debt is actually owed if a consumer disputes its validity. Currently, consumers must dispute the debt in writing and request verification within 30 days of the first collection effort. Under the proposed reforms, anytime a consumer disputes the validity of the debt, even on the phone, debt collectors will need to provide documentation proving that the debt is valid, including a copy of the signed contract and final account statement, and that the collector has “chain-of-title,” proving that the collector has the right to collect on the debt.
- ***Making Sure You Get It in Writing.*** Under the regulations, consumers will receive written confirmation of any debt settlement agreement. Consumers will also receive written confirmation and acknowledgement that the debt has been satisfied to stop consumers from being pursued for debts that they already paid off.
- ***Cutting Down on Harassing Phone Calls.*** The regulators will provide that consumers will also have the right to communicate with collectors through their email, if they choose to do so.

According to Superintendent Lawsby, DFS will aggressively investigate and pursue those firms that violate the consumer protections included in this regulation. The proposed regulation will be published in the State Register shortly and will be subject to a 45-day notice and comment period.

Executive/Legislative Actions

Bills Signed by the Governor

Chapter 162 (Sponsored by Senator Maziarz/M of A Zebrowski) Increases killing or injuring a police animal from class A misdemeanor to class D felony.

Chapter 168 (Sponsored by M of A DenDekker/Senator Robach) Requires colleges to provide written notification to students whether college-owned housing is equipped with sprinkler systems.

Chapter 169 (A2285A Sponsored by M of A Weisenberg/Senator Fuschillo) Relates to driving while intoxicated and the installation of ignition interlock devices.

Bills Delivered to the Governor

A878A Sponsored by M of A Bronson (Senator Grisanti) Relates to the employment of persons to function as central service technicians in certain healthcare facilities.

A1115A Sponsored by M of A Jaffee (Senator Martins) Prohibits smoking on the grounds of general hospitals and residential health care facilities.

A1398A Sponsored by M of A Gunther (MS) (Senator Valesky) Authorizes boards of cooperative educational services to enter into contracts with public libraries for high-speed telecommunications services.

A1457 Sponsored by M of A Thiele (MS) (Senator LaValle) Authorizes a no fare program for transportation on the Long Island Rail Road for police officers employed by the towns of Suffolk.

A2316B Sponsored by M of A Gunther (MS) (Senator Larkin) Requires facilities to perform pulse oximetry screening on newborns.

A4327A Sponsored by M of A Glick (MS) (Senator Klein) Establishes demonstration program implementing speed violation monitoring systems in school speed zones by means of photo devices in N.Y. City.

A5576B Sponsored by M of A Markey (Senator Golden) Increases certain special accidental death benefits.

A6519B Sponsored by M of A Silver (MS) (Senator Hannon) Creates the freelancers health plan demonstration program.

A7557 Sponsored by M of A Farrell (Senator Golden) Allows the tax department to disclose certain information to the commissioner of finance of the city of New York for purposes of administering laws relating to taxes and charges collected by NYC DOF.

S2007 Sponsored by Senator LaValle (M of A Thiele) -- Requires that persons less than eighteen years of age wear a helmet when riding a horse.

S3702B Sponsored by Senator Lanza (M of A Silver) -- Provides for process for rebate of real property taxes on certain real property seriously damaged by the severe storm of October 29 & 30, 2012 in cities of one million or more.

S4160A Sponsored by Senator Lanza (M of A Titone) -- Relates to assault on prosecutors.

S4881 Sponsored by Senator Hoylman (M of A O'Donnell) -- Authorizes a licensed pharmacist and certified nurse practitioner to administer meningococcal disease immunizing agents.

S5121 Sponsored by Senator Griffo (M of A Brindisi) -- Relates to the demutualization of domestic mutual health insurance companies.

S5185A Sponsored by Senator Savino (M of A Cahill) -- Relates to the practice of surgical technology and surgical technologists.

S5844 Sponsored by RULES (M of A Sweeney) -- Relates to the powers and duties of the department of public service and the Long Island power authority.

Rosalie Edson Honored with the Women Owned Business Excellence Award

Meadows Office Furniture CEO Rosalie Edson was honored with the 2013 Women Owned Business Excellence Award at The Competitive Edge annual conference held this week in New York City. This award is given in recognition of Ms. Edson's continued success and exemplary leadership demonstrated throughout the WBE community.



**Rosaline Edson (left) accepts
2013 Women Owned Business
Excellence Award.**

Ms. Edson has owned Meadows Office Furniture since 1986. She has helped guide the company's growth to achieve sales that have exceeded \$90 million annually. Her accomplishments include Top 500 Women Owned Business in the U.S., Top 12 Women Owned Business in N.Y.C., Zenith Group / Women's President Organization, WBE NC Certified, Who's Who in America, Profiled in Forbes Magazine, Newsweek, and Newsday.

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Formed in 1993, the Competitive Edge Planning Committee is a consortium of public and private partners working together to increase its roster of qualified Disadvantaged Minority, Women Business Enterprise (M/W/D/LBEs) and create procurement and contracting opportunities for qualified firms.

Briefs

Same Sex Marriage Spouses Eligible for NY Estate Tax Consideration

Based upon the United States Supreme Court decision in relation to the Defense of Marriage Act, for New York State estate tax purposes, estates of individuals legally married to same-sex spouses are entitled to claim the same deductions and elections allowed for estates of individuals legally married to different-sex spouses, including the marital deduction, for all years open under the statute of limitations.

For New York estate tax purposes, equal treatment has been given to estates of individuals legally married to different-sex spouses and same-sex spouses since the enactment of the Marriage Equality Act, applicable to estates of individuals dying on or after July 24, 2011. As a result of the Supreme Court's decision, this treatment now also applies to estates of individuals legally married to same-sex spouses who died prior to July 24, 2011.

Statute of limitations applies for credits or refund of overpayments

Accordingly, taxpayers affected by the Supreme Court decision may amend any previously filed estate tax return where the statute of limitations to apply for a refund remains open. Generally, a claim for credit or refund of an overpayment of estate tax must be filed by a taxpayer within the later of:

- three years from the date the original return was filed (if the original return was filed before the due date, three years from the due date), or
- two years from the date the tax was paid.

Distracted Driver Penalties Take Effect Today

New penalties for distracted driving take effect today, establishing higher fines for individuals who repeatedly text and drive or who drive while talking on a cell phone without a hands free device. In addition, the rules make the fine for talking on a cell-phone while driving consistent with the fine for texting while driving. The new maximum fines are: 1st offense: \$150 maximum fine; 2nd offense within 18 months: \$200 maximum fine; 3 or more offenses within 18 months: \$400 maximum fine.

Effective July 1st, the penalty points drivers receive on their license for each distracted driving offense was raised from three to five. In addition, the State is allowed to suspend the driver's licenses of teenage drivers who text or talk on a cell phone while driving.

Justice Center Abuse Hotline Gets 5,000 Calls in First Three Weeks

The Justice Center for People with Special Needs, a new state agency established to protect New Yorkers with disabilities, has logged more than 5,000 calls to its abuse hotline in the first three weeks. The call center operates around the clock with a staff of 80 representatives.

Executive Director Jeffrey Wise indicated that it is too soon to determine how many of the calls represent actual cases, and the center is getting multiple calls on the same incidents, according to published reports.

Service providers are required by law to call the center or file an online report of abuse. Medical personnel, mental health professionals, education professionals, and police are also mandated to report abuse.

Agencies under its jurisdiction include the Office of Mental Health, Office of Alcoholism and Substance Abuse Services, Office of Children and Family Services and certain adult homes and residential schools operated by the health and education departments. In addition, the Center regulates the New York's residential and day program providers licensed or certified by the State.

Providers hiring staff are required to check applicants against both the new exclusion list and a statewide registry for criminal background checks.

Comptroller DiNapoli: Economic Recovery Helps Balance New York City Budget

A strong economy and job gains have helped balance the New York City Fiscal Year (FY) 2014 budget and maintained services at current levels without raising taxes, according to a review of the city's financial plan released this week at the annual meeting of the Financial Control Board by New York State Comptroller Thomas P. DiNapoli.

According to the Comptroller, the FY 2014 budget is balanced and out-year budget gaps of \$2 billion in FY 2015, \$1.8 billion in FY 2016 and \$1.4 billion in FY 2017 are smaller than those projected a year ago. While revenue collections could exceed city forecasts, the city still faces significant budget risks.

The largest uncertainty is the outcome of collective bargaining. All of the contracts with the city's unions have expired, some as long ago as November 2009. The city has also not budgeted for the potential impact of the next round of federal budget cuts. In addition, the city can only sell 400 of the 2,000 new taxi medallions without state approval of a taxi accessibility plan for disabled passengers, even though a court ruling allows the city to move forward.

Free Summer Fun in NYC

Venues across New York City are sponsoring various free events this summer. We have compiled a listing of some of the events and have attached it for your reference. Enjoy!

Coming Up

New York State

Tuesday July 30th

The use of biotechnology in foods and its effects on consumers

Assembly Standing Committee on Consumer Affairs and Protection

250 Bedford Park Boulevard West, Lehman College, East Dining Room, Bronx, 10 a.m.

New York City

There are no meetings the week of July 29th

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