

New York

General Assistance

For purposes of public assistance, New York law divides the state into social services districts, which are referred to as public welfare districts. Each county in the state constitutes one social services district.¹ The one exception is New York City, which is the only city that is considered its own social services district.² Each district is responsible for the care and assistance of any person who resides in the district, or even happens to be in the district, and who is in need of public assistance and care that he is unable to provide for himself.³ However, if the person is a state charge, then the state will reimburse the district for the full cost of assistance and care.⁴

The Department of Health (N.Y. Public Health Law § 200 *et seq.*)

Another state agency that has a hand in providing health care to New York residents is the state Department of Health. Among the agency's many responsibilities are the duty to maintain and operate state hospitals, institutions and public health centers and clinics established by the department,⁵ and the duty to see to the health care needs of ambulant sick and needy Native Americans on reservations.⁶ In 1996, the New York legislature passed an amendment to the Public Health code that shifts responsibility for the medical assistance program from the Department of Social Services to the Department of Health, which will now serve as the single state agency administering the state's Medicaid program.⁷

Public Institutional Care for Adults (New York Social Services Law § 193)

Public welfare districts are authorized by state law to create and maintain public homes designed to care for chronically sick and acutely ill patients who are in need of such care but unable to pay for it.⁸ Such homes may admit patients who pay for the services, but must not turn away indigent patients when there are paying patients being treated.⁹ Inmates in these public homes must be examined by the attending

¹ New York Social Services Law § 61, *et seq.*

² New York Social Services Law § 61

³ New York Social Services Law § 62

⁴ New York Social Services Law § 62

⁵ New York Public Health Law § 201 (1) (k)

⁶ New York Public Health Law § 201 (1) (s)

⁷ New York Public Health Law § 201 (1) (v)

⁸ New York Social Services Law § 193

⁹ New York Social Services Law § 193

physician upon admission to the home and medical records must be kept as to the patient's condition, the physician's recommendation regarding the type of care to be provided, and any medical attention received thereafter.¹⁰

Catastrophic Health Care Expense Program (NY Soc. Svcs. Law §§ 369-a to 369-j)

This program was originally enacted in 1978, but was never funded. In 1988, the New York legislature decided to breathe new life into the concept by repealing the 1978 law and enacting a new demonstration program.

To be eligible for the program, a family must not only reside within a social services district that is participating in the demonstration program, but also must reside there for the full calendar year during which claimed expenses were incurred.¹¹ Moving out of the participating district during the calendar year will render any medical expenses incurred thereafter ineligible for this program.¹²

Additionally, the medical expenses must be "eligible catastrophic health care expenses," which are described as expenses covered by the medical assistance program except for non-acute inpatient care.¹³ These expenses must be in excess of fifty percent of the difference between the family's adjusted income for the year and the federal poverty level for the household size.¹⁴

Health Insurance Continuation Program for Persons with AIDS (NY Soc. Svcs. Law §§ 369-k to 369-n)

This program provides for partial or full payment of health insurance premiums for certain needy AIDS patients. The program is designed to assist AIDS patients who had health insurance coverage with a previous employer, but who are either currently unemployed or took a new job which either does not offer health insurance at all or only offers health insurance for which the AIDS patient is ineligible.¹⁵ Additionally, the person must live in a household with an income within 185 percent of the federal poverty level.¹⁶ This program is supplemental to the medical assistance program, and any person eligible for Medicaid is ineligible for this program.¹⁷

¹⁰ New York Social Services Law § 195

¹¹ New York Social Services Law § 369-c (2)

¹² New York Social Services Law § 369-c (2)

¹³ New York Social Services Law § 369-b (6). Medical services covered under the medical assistance program can be found in New York Social Services Law § 365-a.

¹⁴ New York Social Services Law § 369-d (1)(b)

¹⁵ New York Social Services Law § 369-m (1)

¹⁶ New York Social Services Law § 369-m(1)(c)

¹⁷ New York Social Services Law § 369-n

County Medical Assistance Clinics (NY County Law § 396-a to 396-f)

County governments are authorized by state law to create county clinics for the care and treatment of persons receiving medical assistance for the needy.¹⁸ If established, the clinic must be headed by a physician licensed in New York who must ensure that all persons eligible for medical assistance to the needy receive medical assistance as necessary, as long as the patient has prior authorization from the social services department.¹⁹ Services to be provided include those of physicians, dentists, nurses, optometrists, and podiatrists.²⁰ The clinics must have the ability to provide physical therapy, rehabilitative services, and laboratory and X-ray services, as well as adequate facilities for the dispensing of drugs, eyeglasses, dentures, and prosthetic appliances.²¹

Communicable Diseases (N.Y. Public Health Law § 2100 *et seq.*)

If an indigent person is unfortunate enough to be staying in a home operated by a public welfare district and a communicable disease is found to exist in that facility, he or she may find little comfort in the New York Public Health code. A vaguely worded state law authorizes, but does not require, the public welfare commissioner to remove any inmates, presumably the infected inmates, to another location in the county.²² There, they are required to receive “all necessary medical care and attendance” until they can be safely returned to the home or discharged, all at the expense of the county.²³

The state, however, is willing to pay the cost of providing any necessary medical attention for indigent Native Americans afflicted with a communicable disease during an epidemic of that disease.²⁴ New York City is exempt from both of the aforementioned laws.²⁵

Typhoid Fever. One state law allows a patient suffering from Typhoid fever to be cared for at home, as long as there is no health care facility available and the commissioner believes that such home care poses no threat to the public health.²⁶ The commissioner is even authorized to provide the necessary medical attention and designate which agency or person that will furnish such care.²⁷ This provision does not

¹⁸ New York County Law § 396-a

¹⁹ New York County Law § 396-c

²⁰ New York County Law § 396-d

²¹ New York County Law § 396-d

²² New York Public Health Law § 2106

²³ New York Public Health Law § 2106

²⁴ New York Public Health Law § 2108 (1)

²⁵ New York Public Health Law § 2110

²⁶ New York Public Health Law § 2151

²⁷ New York Public Health Law § 2151

apply to New York City.²⁸

Poliomyelitis. Adults afflicted with poliomyelitis who cannot afford treatment for their condition, can turn to their county or state health official to provide such care.²⁹ State law calls upon such officials to provide “suitable surgical, medical or therapeutic treatment or hospital care, and necessary appliances and devices...” to individuals at the remediable stages of the disease.³⁰

Immunizations (N.Y. Public Health Law § 2164 *et seq.*)

Parents of children are responsible for making sure that the children are administered immunizations against poliomyelitis, mumps, measles, diphtheria, rubella, and haemophilus influenzae type b (Hib).³¹ If the parents are unable to afford the services of a private physician for this purpose, the parents must have the child immunized by the county health officer for their county of residence, who will administer the immunization without charge.³²

College students are also required to be immunized against measles, mumps and rubella before they may enroll.³³ Students unable to pay for such immunizations may go to the county health officer for immunization without charge.³⁴

Tuberculosis (N.Y. Public Health Law § 2202; N.Y. County Law § 385 *et seq.*)

Like many states, New York recognizes the threat that Tuberculosis poses to the public health, and provides for the testing, care and treatment of the disease at no cost to individuals.³⁵ It places the responsibility to pay for such care on the county in which the individual has legal residence.³⁶ Such payment is secondary to any third party coverage the individual may have.³⁷ Counties with populations in excess of 35,000 residents are required to have a county hospital for the care and treatment of

²⁸ New York Public Health Law § 2153

²⁹ New York Public Health Law § 2161

³⁰ New York Public Health Law § 2161

³¹ New York Public Health Law § 2164 (2)

³² New York Public Health Law § 2164 (4)

³³ New York Public Health Law § 2165 (2)

³⁴ New York Public Health Law § 2165 (4)

³⁵ New York Public Health Law § 2202

³⁶ New York Public Health Law § 2202 (1) (c)

³⁷ New York Public Health Law § 2202 (1) (c)

tuberculosis or some other facility that serves the same purpose.³⁸

Public Hospitals (N.Y. General Municipal Law § 126 *et seq.*)

The governing board of any county, town, or city may provide a public general hospital for the care and treatment of the sick or chronically ill,³⁹ and may assess, levy, and collect money necessary to operate and maintain such facilities.⁴⁰

Public hospitals for the chronically ill may also be established by those same governmental bodies.⁴¹ The commissioner of public welfare may place patients who are either receiving public assistance or are determined to be needy into these hospitals, with the expense to be paid by the commissioner.⁴² Other indigent patients must undergo an inquiry regarding the patient's, and the patient's family's, ability to pay. If it becomes clear that the patient is unable to pay, then the responsibility to pay falls to the county or city maintaining the hospital.⁴³

Cancer Treatment Program (N.Y. Public Health Law § 2420 *et seq.*)

The state institute for the study of malignant diseases, also known as the Roswell Park Cancer Institute, falls under the management and control of the department of public health.⁴⁴ The institute exists to study malignant diseases, and conducts investigations into the cause, mortality, treatment, prevention and cure of cancer.⁴⁵ The institute is authorized to receive patients free of charge in order to study them, or provide experimental or other treatment.⁴⁶

Sexually Transmitted Diseases (N.Y. Public Health Law § 2300 *et seq.*)

Each local board of health must provide facilities for the diagnosis and treatment of local residents who are suspected of having a sexually transmitted disease.⁴⁷ For persons unable or unwilling to pay for testing

³⁸ New York County Law § 385

³⁹ New York General Municipal Law § 126

⁴⁰ New York General Municipal Law § 126

⁴¹ New York General Municipal Law § 126-b

⁴² New York General Municipal Law § 126-b

⁴³ New York General Municipal Law § 126-b

⁴⁴ New York Public Health Law § 2420

⁴⁵ New York Public Health Law § 2421

⁴⁶ New York Public Health Law § 2421

⁴⁷ New York Public Health Law § 2304

and treatment by a private physician, the board of health must provide these services for free.⁴⁸

Department of Mental Hygiene (N.Y. Mental Hygiene Law § 1 *et seq.*)

The department of mental hygiene comprises three autonomous offices: (1) the office of mental health; (2) the office of mental retardation and developmental disabilities; and (3) the office of alcoholism and substance abuse.⁴⁹ For inpatient services, the department is required by state law to charge fees to patients and residents, provided that services are not denied based on an inability to pay.⁵⁰

Alcohol and Substance Abuse Services (N.Y. Mental Hygiene Law § 19 *et seq.*)

In 1992, the state legislature voted to consolidate the offices of alcohol abuse and substance abuse into the unified Office of Alcohol and Substance Abuse,⁵¹ which is responsible for developing comprehensive plans, programs and services for people who abuse or are dependent on alcohol and other addictive substances.⁵² Among the many specific powers granted to the office is the authority to provide financial assistance to local substance abuse programs.⁵³ Local programs receiving such financial assistance are required to create fee schedules for the substance abuse services they offer, and may charge such fees to persons financially able to pay, as long as the services are not withheld from any person because of an inability to pay.⁵⁴

Alcohol and drug abuse services are also mentioned in the social services statutes. Social services officials must require applicants for, and recipients of, home relief who are abusing alcohol or other substances to undergo rehabilitative therapy in order to maintain eligibility for the program.⁵⁵

Emergency Medical Care (N.Y. Public Health Law § 2805-b)

Strict laws govern the behavior of hospital emergency room staff toward patients seeking emergency

⁴⁸ New York Public Health Law § 2304

⁴⁹ New York Mental Hygiene Law § 5.01

⁵⁰ New York Mental Hygiene Law § 43.01. For more information on fees and rates for the Office of Mental Health, see 14 NYCRR 60.1 *et seq.*, and for the Office of Mental Retardation and Developmental Disabilities, see 14 NYCRR 62.1 *et seq.*

⁵¹ New York Mental Hygiene Law § 19.01

⁵² New York Mental Hygiene Law § 19.07

⁵³ New York Mental Hygiene Law § 25.03

⁵⁴ New York Mental Hygiene Law § 25.17

⁵⁵ New York Social Services Law § 158-a. Home relief is a program that provides support, maintenance and training costs to enable needy persons to become self-supporting (New York Social Services Law § 157).

medical treatment. Hospitals must admit persons in need of immediate hospitalization and may not question the patient, or any member of the patient's family, regarding such issues as insurance, credit or payment of charges.⁵⁶ The hospital may require, however, that the patient or the patient's family agrees to provide such information after the patient's admission.⁵⁷ Hospitals are also not allowed to transfer patients to another hospital because of the patient's inability to pay for treatment. Any hospital that maintains an outpatient emergency medical care facility must provide emergency care to any person who requires such care.⁵⁸

The statute goes so far as criminalizing the refusal to provide care in certain circumstances. For hospitals in cities with a population of one million or more, a general hospital that fails to provide treatment to any person in need of such care who arrives at the entrance to the hospital, will be guilty of a misdemeanor.⁵⁹ Likewise, any licensed medical practitioner working at such a hospital who refuses to treat such a person, or anyone who interferes with the provision of the treatment, will be guilty of a misdemeanor.⁶⁰

A hospital may only divert an ambulance containing patients with life threatening conditions to another hospital if acceptance of the patient would endanger the life of the patient or that of another patient.⁶¹ Diversions of other emergency patients can only be made if all appropriate beds are full, and must be withdrawn once a bed becomes available.⁶²

A hospital's operating certificate may be revoked, suspended, limited or annulled if the commissioner finds that the hospital has refused to provide emergency medical care to an unidentified person brought to the hospital in an unconscious, seriously ill or wounded condition.⁶³

Expanded Health Care Coverage Act of 1988 (N.Y. Expanded Health Care Coverage §§ 1-4)

Recognizing the steady increase in the numbers of uninsured residents, the New York State Legislature passed the Expanded Health Care Coverage Act of 1988, which established the authority to create pilot programs designed to test mechanisms that provide health coverage to the uninsured.

The program allows the commissioner of health to create two types of special pilot projects, one that provides subsidies to individuals and families to purchase health insurance, and another that provides incentive payments to encourage small businesses to provide health insurance to employees.

⁵⁶ New York Public Health Law § 2805-b (1)

⁵⁷ New York Public Health Law § 2805-b (1)

⁵⁸ New York Public Health Law § 2805-b (1)

⁵⁹ New York Public Health Law § 2805-b (2) (a)

⁶⁰ New York Public Health Law § 2805-b (2) (b)

⁶¹ New York Public Health Law § 2805-b (3)

⁶² New York Public Health Law § 2805-b (3)

⁶³ New York Public Health Law § 2806 (1)

The individual subsidy program is designed to help eligible individuals and families purchase health insurance. Eligibility for the program is limited to individuals or families that meet four criteria: (1) gross household income is below 200 percent of the federal poverty level, (2) household members are not receiving health care benefits from the state's medical assistance program, (3) household members are not eligible for Medicare, and (4) household members do not currently have health insurance coverage, nor have had coverage for the six months prior to applying for the individual subsidy program.⁶⁴

New York's Child Health Insurance Plan

The Child Health Insurance Plan ("CHIP") is a state-administered program that provides funding to approved commercial insurers, health maintenance organizations, and health services plans that contract with the state to provide an approved package of medical benefits to qualified state residents.

Program Funding

Funding for this program is limited to the availability of funds.⁶⁵ There is no indication what criteria shall determine appropriations for this program. Once contracts are formed between the state and health service/insurance organizations, however, the state is required to provide subsidy payments to these organizations adequate to cover "the entire cost of coverage for eligible children."⁶⁶

Beneficiary Eligibility

New York State residents under 19 years of age, who are uninsured and ineligible for Medicaid, and whose family incomes do not exceed 185 percent of the federal poverty are eligible for this program's benefits.⁶⁷ The organizations with which the state contracts to provide health services under this program are responsible for screening the eligibility of applicants to this program.⁶⁸

Scope of Medical Benefits

A comprehensive array of outpatient and inpatient primary and prophylactic health care services are available under this program. Specifically, contracting organizations are required to provide: the outpatient services of physicians, optometrists, nurses, nurse-practitioners, midwives and others.⁶⁹ These services shall include routine well-child visits, services relating to the diagnosis and treatment of illness and injury; laboratory tests and diagnostic x-rays, prescription drugs, radiation therapy; chemotherapy; hemodialysis, emergency services, and outpatient alcohol and substance abuse services.⁷⁰

⁶⁴ New York Expanded Health Care Coverage Act § 4(2)(a)

⁶⁵ N.Y. Public Health Law § 2511.1(a) [CLS 1997 Supplement].

⁶⁶ N.Y. Public Health Law § 2511.3 [CLS 1997 Supplement].

⁶⁷ N.Y. Public Health Law § 2511(2) [CLS 1997 Supplement].

⁶⁸ N.Y. Public Health Law §§ 2511.2, 2511.2-a.(a) [CLS 1997 Supplement].

⁶⁹ N.Y. Public Health Law § 2510.7.a. [CLS 1997 Supplement].

⁷⁰ *Id.*

Contracting organizations are also required to provide inpatient services which consist of all standard services available in a general hospital, including physician and surgeon services. Excluded from inpatient services, however, are mental health services, substance abuse services, and alcohol treatment services.⁷¹

The organizations with which the state contracts to provide services under this program may, in addition to the mandatory services just enumerated, provide the following optional services: dental, vision, speech and hearing services.⁷²

Beneficiary Cost-Sharing

Premiums

Children whose family incomes are no greater than 100 percent of the federal poverty line are not required to pay a premium. Children whose family incomes are between 100 percent and 132 percent of the federal poverty level are required to pay nine dollars per month. Children whose family incomes are between 133 and 185 percent of the federal poverty level are required to pay thirteen dollars per month.⁷³

Co-Payments

Contracting providers are required to impose a two dollar copayment per visit for physician service, except those provided on an inpatient basis, and may impose a "reasonable coinsurance" for prescription drugs and a thirty-five dollar co-payment for emergency room services, when such service are not reported within twenty-four hours.⁷⁴

Contracting Organizations and their Obligations

Commercial insurers, health maintenance organizations or corporations, and comprehensive health services plans may apply to the commissioner of public health and the superintendent of insurance for contracts under this program.⁷⁵

A proposal by a would-be contracting entity must present a viable plan which defines its service area, its methods and abilities to provide adequate access to inpatient and outpatient care, that it has an acceptable reimbursement arrangement with its providers, and is able and committed to exercising appropriate quality assurance, utilization review, and case management.⁷⁶

In addition to providing the medical services described above under the Beneficiary Benefit's section, contracting entities must screen applicants to see that they meet the program's eligibility standards and

⁷¹N.Y. Public Health Law § 2510.11. [CLS 1997 Supplement].

⁷²N.Y. Public Health Law § 2510(7.b) [CLS 1997 Supplement].

⁷³N.Y. Public Health Law § 2510.9.(b) [CLS 1997 Supplement].

⁷⁴N.Y. Public Health Law § 2510.3. [CLS 1997 Supplement].

⁷⁵N.Y. Public Health Law §§ 2510.3., 2511.1.(a) [CLS 1997 Supplement]; Insurance Law §§ 1120. *et seq.* [CLS 1997 Supplement].

⁷⁶N.Y. Public Health Law § 2511.7.(a) [CLS 1997 Supplement].

shall be penalized for frequent or widespread violations.⁷⁷

Program Oversight and Quality Assurance

The Commissioner of Health is required to develop standards for the scope of primary and prophylactic care and inpatient health care services benefits, standards for determining appropriate provider payment methodologies, and standards for determining appropriate utilization review, quality assurance and case management systems.⁷⁸

The Commissioner, in cooperation with the Superintendent of Insurance shall determine whether to award contracts to health care entities submitting proposals,⁷⁹ and are required to ensure to the maximum extent possible that benefits under this program are available in every part of the state.⁸⁰

The Commissioner must also review the annual reports submitted by the contracting entities, and in conjunction with the Superintendent, contract with external organizations which shall conduct comprehensive evaluations of the implementation and effectiveness of the child health insurance program, focusing on such areas as: patterns of service utilization, geographic availability of service providers, possible reductions in uncompensated care as a result of the program, enrollee satisfaction, and whether emergency rooms are being utilized appropriately.⁸¹

Due Process Provisions

This is a state program which uses private plans to meet the state's objective of providing a basic medical insurance package to poor children. The contractors are in effect state actors, and thus must afford certain procedural rights. When a person is denied entry into the program, is denied a benefit, or suffers a reduction in benefits, or is an enrollee and is dissatisfied in some other way with the plan, the applicant or beneficiary is entitled to certain procedural protection. These procedural protection are not outlined in this program's promulgating statute, but exist nonetheless.

⁷⁷N.Y. Public Health Law § 2511.5-a. [CLS 1997 Supplement].

⁷⁸N.Y. Public Health Law § 2511.6. [CLS 1997 Supplement].

⁷⁹N.Y. Public Health Law § 2511.7.(b) [CLS 1997 Supplement].

⁸⁰N.Y. Public Health Law § 2511.7.(c) [CLS 1997 Supplement].

⁸¹N.Y. Public Health Law § 2511.14 [CLS 1997 Supplement].