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# Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

## NYS Legislature Rejects Most of Governor's Health Care Cuts in Joint Budget Agreement

Last week, the State Legislature reached final agreement on a two-house joint budget for State fiscal year 2006–07, which began on April 1. GNYHA worked hard with the Legislature and the Governor's Office on a variety of issues on its members' behalf, including the elimination of budget cuts, support for new investments, charity care policy legislation, and Medicaid fraud and abuse proposals.

**Funding Cuts:** The Legislature rejected nearly all the Medicaid and other health care funding cuts proposed by Gov. Pataki for hospitals and nursing homes, including Medicaid

inflation or "trend factor" cuts, hospital volume adjustment cuts, graduate medical education cuts, mental health cuts, and cuts to large, hospital-based nursing homes. The Legislature also rejected the Governor's proposed reimbursement rate cut to inpatient detoxification services, opting instead for a proposal put forth originally by members of the GNYHA Substance Abuse Workgroup that would create a 48-hour extended observation, or so-called short stay outlier bed, designed to reduce utilization at the full inpatient reimbursement rate. The Legislature

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## FY 2007 Federal Budget: No Medicare or Medicaid Cuts Yet

The Senate and House have been busy over the past several weeks crafting their respective fiscal year (FY) 2007 budget resolutions—Congress's formal response to the President's budget issued earlier in the year. It lays out discretionary spending levels and includes budget savings instructions, which often open the door to cutting entitlement programs, such as Medicare and Medicaid, by protecting bills from filibuster.

**Senate:** By a vote of 51–49, the U.S. Senate adopted its \$2.8 trillion budget resolution (S. Con Res 83) on Mar. 16, which included adding \$16 billion more to the \$873 billion discretionary spending cap proposed by President Bush in his FY 2007 budget. The Senate essentially rejected the President's proposed cuts to hospitals and other health care providers, which, if implemented, would have reduced payments by \$1.2 billion in New York State alone. Specifically, since the Senate did not include any direct cuts to providers, hospitals would no longer be facing \$723 million in cuts proposed by the President if the Senate budget plan is enacted.

The Senate's resolution does call for the elimination of the Medicare Advantage (MA) stabilization fund, created by the Medicare Modernization Act of 2003 to attract and retain MA plans, a proposal that had been rejected during Deficit Reduction Act (DRA) negotiations this past fall. Additionally, the Senate budget includes a trigger policy, which would provide a new point of order on spend-

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### GNYHA Annual Meeting

Set for April 18 | *Hubbard and Berger to Speak*

**THIS YEAR'S ANNUAL MEETING** will be held on April 18, 2006, from 7:30 a.m. (registration) to 12:00 noon, at the Roosevelt Hotel New York City, on Madison Avenue at 45th Street in Manhattan. The keynote address will be given by **Allan Hubbard**, Assistant to President George W. Bush for Economic Policy and Director of the National Economic Council. Mr. Hubbard is spearheading the Bush Administration's policies on transparency in health care pricing, and his keynote address will be an excellent opportunity to hear firsthand about the transparency initiative.

A special panel, "Challenges in Today's Health Care Environment," will follow the keynote address, with **Stephen Berger**, Chairman, Commission on Health Care Facilities in the 21st Century, discussing and answering questions about the Commission's work; **Philip K. Howard**, Founder and Chair, Common Good, who will talk about "health courts"—a medical malpractice reform proposal that would provide fair and reliable justice for patients and physicians alike; and **Robert Wachter, M.D.**, Professor of Medicine, University of California, San Francisco, and a nationally known author, who will discuss why medical errors occur and what can be done to eliminate them.

If you have not received a registration brochure and would like to attend this year's Annual Meeting, please contact John Wedeles at [wedeles@gnyha.org](mailto:wedeles@gnyha.org) no later than April 10, 2006. ■

# Medicaid Managed Care Enrollment Surged Over Four Years

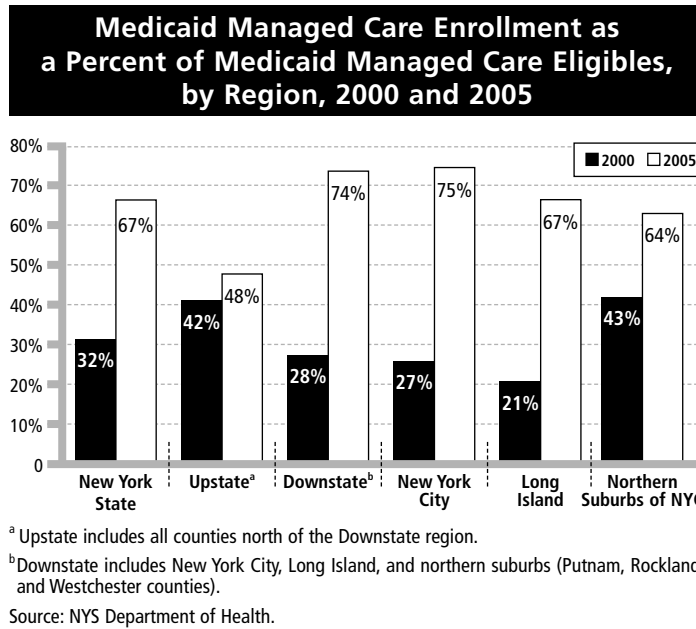
Following four years of significant enrollment growth in New York State's Medicaid Managed Care program from 2000 through 2004, enrollment stabilized throughout 2005. From a total enrollment of 681,000 in 2000, the program nearly tripled in growth to 1.95 million in 2004, and then leveled off at just over 2 million in 2005. The largest growth occurred between 2001 and 2003 as the phase-in of mandatory enrollment concluded and was fully implemented in all designated counties.

The surge in enrollment more than doubled the penetration rate (total enrolled as a percent of total eligible persons) in New York State from 32% in 2000 up to 67% in 2005, with a higher level of enrollment downstate than upstate. With

mandatory enrollment implemented in 9 of the 10 downstate counties, the downstate region achieved a 74% penetration rate in

2005, up from 28% in 2000. Mandatory enrollment has been implemented in 37% of the upstate counties, and penetration has grown 6% during the same period, to 48%.

A subsequent wave of enrollment growth is expected with the implementation of mandatory enrollment of the Supplemental Security Income population, and more so from the New York State Department of Health (DOH) initiative to expand mandatory enrollment into many counties that currently operate on a voluntary enrollment basis if they already have the necessary infrastructure and sufficient provider networks in place. According to DOH enrollment reports, 34 counties currently operate on a voluntary enrollment basis. ■



## FY 2007 Federal Budget *continued from page 1*

ing if the general fund contributes more than 45% of total Medicare outlays. Although this policy does not have any immediate effects, it could be very damaging to health care providers in future years by potentially mandating offsets in the form of provider cuts if Medicare spending continues on its current trajectory. While Senator Jeff Bingaman (D-N.Mex.) offered an amendment to strike this policy, it failed because of a tie vote. Senators Arlen Specter (R-Pa.) and Tom Harkin (D-Iowa) introduced a separate amendment

that passed by a vote of 73–27, which would provide \$7 billion more for health, education, and worker safety programs.

**House:** On March 29, the U.S. House Budget Committee passed its budget resolution by a vote of 22–17, which includes the President's \$873 billion cap on discretionary spending, though it does not include the Senate's trigger policy. However, the House resolution did include reconciliation instructions requiring the Ways & Means Committee to make \$4 billion in cuts to entitlement programs. While

this leaves the Medicare and Medicaid programs vulnerable to reductions, Chairman Bill Thomas (R-Calif.) has stated that his Committee expects to find savings outside of these programs. Moderate Republicans have already come forward and threatened the ability to pass a resolution if certain proposals are included. Specifically, 62 Republicans—led by Reps. Jim Gerlach (R-Pa.) and John M. McHugh (R-N.Y.)—have stated their opposition to further cuts to the Medicare program, and an additional 23 moderate Republicans, led by Reps. Nancy Johnson (R-Conn.), Chair of the Ways & Means Health Subcommittee, and Fred Upton (R-Mich.), have requested a 2% increase in domestic discretionary spending. A rally was held last week by Rep. Mike Castle (R-Del.) to demonstrate additional support. In conversations with House majority staff, GNYHA has also confirmed that Medicare and Medicaid cuts are not expected to occur this year. Given that 2006 is an election year, and that it was difficult to achieve the \$11 billion in Medicare and Medicaid savings as part of the recently passed DRA, Congress is less inclined to reduce those programs further in FY 2007. House leadership expects to hold a floor vote on the budget measure this week. ■

### RIGHTSIZING COMMISSION UPDATE

**NEW RAC MEMBERS:** The following members have been added to the Long Island and Hudson Valley Regional Advisory Committees (RACs) of the Commission on Health Care Facilities in the 21st Century: **1) Long Island**—Jack Howlett, Board Co-Chair, New Island Hospital; Jeffrey Kraut, Senior Vice

President of Planning, North Shore–Long Island Jewish Health System; Joseph Carillo, Administrator, Carilloan Nursing and Rehabilitation Center; Ronald Gaudreault, former President and CEO, Huntington Hospital; and **2) Hudson Valley**—Charles Bell, Programs Director, Consumers Union.

**UPCOMING RAC MEETINGS:** Central Region, Apr. 4, Watertown; Long Island Region, Apr. 11, Hempstead.

**FULL COMMISSION MEETINGS:** Apr. 5, Rochester; May 11, NYC; June 8, NYC. Advance registration is required; contact Denise Trudeau at (518) 474-7354, ext. 1, no more than two weeks before the meeting date.

More information about the Commission, including current statewide, regional, and RAC members, is available at [www.nyhealthcarecommission.com](http://www.nyhealthcarecommission.com). ■

# CLABs Collaborative Expanding, Inviting New Members

The GNYHA/United Hospital Fund (UHF) Central Line–Associated Bloodstream Infections (CLABs) Collaborative is now entering its second phase. The Collaborative was launched in February 2005 to eliminate CLABs in hospital intensive care units (ICUs) and to create a quality improvement model for optimizing patient care. Thirty-eight GNYHA member hospitals have been participating throughout Phase One, during which they have been developing sustainable strategies to eliminate infections in their ICUs and improve care over the long term.

As Phase One concludes, 35 of the 38 participating hospitals report an aggregate reduction in the ICU infection rate of 40–50%, with some hospitals reporting that they have eliminated CLABs completely. GNYHA and UHF have targeted “zero CLABs” in all participating hospital ICUs

as a primary goal for Phase Two.

The Collaborative has also identified many best practices for generating widespread, sus-

tainable improvements in patient safety and quality of care at a rapid pace. Of the many lessons learned, the value of senior leadership support and participation has been most critical.

During Phase Two, the lessons learned by the Collaborative participants will be shared with other units in their hospitals, which will then begin to implement the best practices identified in Phase One. Also during Phase Two, additional hospitals will be invited to participate. GNYHA and UHF will provide all new participants with ongoing support through a series of educational conference calls, Web site updates, and a detailed description of and training on the infection reduction and reporting protocols that Phase One participants are using currently.

For more information, contact Terri Straub at GNYHA. ■

## PUBLIC REPORTING

CLABs Collaborative participants will be well positioned when public reporting of hospital-acquired infections becomes a Federal requirement in 2007. On Mar. 29, the U.S. House Energy & Commerce Subcommittee on Oversight and Investigations held a well-attended hearing, “Public Reporting of Hospital-Acquired Infection Rates: Empowering Patients, Saving Lives.” It included a review of the activities of the Centers for Disease Control and Prevention (CDC) and other notable providers (including GNYHA member NewYork-Presbyterian Hospital) and patient safety organizations that have accomplished much in this area. Chairman Ed Whitfield (R-Ky.) began by stating that six states already have public reporting laws, with legislation pending in 20–30 more. While Chairman Whitfield agreed with the CDC that more experience is needed with state laws, Chairman Joe Barton (R-Tex.), of the full Committee, and Rep. Tim Murphy (R-Pa.) supported moving Federal legislation forward. Rep. Murphy announced that he will introduce legislation soon that would tie public reporting to pay-for-performance.

## Budget Agreement *continued from page 1*

also rejected most new beneficiary copays and eligibility changes.

**New Investments:** The Legislature accepted proposals for new investments including an increase in the Medicaid emergency department (ED) reimbursement rate cap from \$95 per visit to \$150 per visit, beginning on Oct. 1, 2006. This increase has been a major priority for GNYHA and the Healthcare Association of New York State (HANYs), and GNYHA is extremely grateful to the State Legislature for making this important down-payment. Other new investments include increases in funding for nursing home quality initiatives and for home health worker recruitment and retention. Regarding nursing home rebasing, the Legislature updated the base year to 2002, with a “hold harmless” for facilities that may be disadvantaged by the update.

**Hospital Charity Care:** Following intensive negotiations with GNYHA and HANYs, the Legislature reached agreement on legislation outlining minimum standards for hospital financial assistance policies for uninsured patients. Hospitals must adopt these minimum standards by Jan. 1, 2007, in order to receive funding from the State bad debt and

charity care pools in 2009. The legislation was negotiated for the Assembly by Assemblyman Pete Grannis (D–Manhattan) and for the Senate by Senator Kemp Hannon (R–Nassau). Hospitals would be required to provide financial assistance to uninsured patients and those who had exhausted their insurance benefits who reside in New York, whose incomes are below 300% of the Federal poverty level, and would be permitted to offer discounts on the coinsurance and deductible amounts that insured patients owe. Financial assistance would have to be offered for emergency hospital services to all eligible patients, and for non-emergent medically necessary hospital services to eligible patients who reside in the hospital’s primary service area. The required payment for eligible patients would be capped at the higher of what Medicare, Medicaid, or the highest-volume commercial payer (that is, the contracted health plan or payer with the highest volume of utilization in the prior year) would have paid for the service. A more detailed description of the bill is available in the members’ area of the GNYHA Web site at [www.gnyha.org/membersarea/news/mlb/2006](http://www.gnyha.org/membersarea/news/mlb/2006).

**Medicaid Fraud and Abuse:** The Assembly supported a new false claims act, modeled after the Federal false claims act, that would

allow whistleblower or so-called *qui tam* lawsuits, under which a whistleblower can share in a portion of the fraud recoveries. The State Senate, as well as GNYHA and HANYs, opposed this provision. The Senate supports a much-expanded role for the new post of Medicaid Inspector General (MIG), including a five-year appointment and a great deal of Medicaid policy and rate-setting responsibility. The Assembly, along with GNYHA and HANYs, oppose the expansiveness of the new MIG’s responsibilities. As *Skyline News* went to press, no agreement had been reached on new fraud and abuse statutes.

**Going Forward:** In general, GNYHA is very pleased with the overall shape of the Legislature’s budget and is grateful to Assembly Speaker Sheldon Silver and Senate Majority Leader Joseph Bruno for their strong support. Now that the Legislature has passed its budget, new negotiations with Governor Pataki are likely, to avoid gubernatorial vetoes. Under the State Constitution, the Governor has 10 days to issue vetoes after the Legislature passes the budget bills. GNYHA will be an integral part of the negotiations, which will last through about Apr. 11, and will keep its members apprised of new developments as they unfold. ■

# NYC Council Convenes Hospital Closing Task Force; Begins Borough Town Hall Meetings

The NYC Council has established a Hospital Closing Task Force to give the public and health care providers additional opportunities for community input as discussions about hospital and nursing home restructuring continue through NYS's Commission on Health Care Facilities in the 21st Century. The Council's Task Force, chaired by City Council Member Helen Sears, will make recommendations to the Commission based on input from the public. Task Force membership is open to all NYC Council members.

On Mar. 21, the Council convened the first of several roundtables designed to provide the Task Force with an overview of New York's health care delivery system. GNYHA President Kenneth Raske reviewed the financially weakened health care system in New York and GNYHA's support of the Commission's charge to rationalize the downsizing process and recommend restructuring actions that will ultimately strengthen the health care system.

The Task Force has also begun to hold Town Hall meetings in each borough to hear from the public and health care providers. The first Town Hall meeting will take place on Apr. 3 in the Bronx at Fordham University. The dates for the Town Hall meetings in the other boroughs are as follows: Brooklyn, Apr. 10, at Brooklyn Borough Hall; Manhattan, April 24, at City Hall; Staten Island, May 1, at Wagner College; and Queens, May 4, at Queens Borough Hall. All meetings will be from 6:00 p.m. to 9:00 p.m. Further information and R.S.V.P. instructions can be obtained by calling (212) 788-9221, a special phone number the NYC Council has set up to handle Task Force calls. ■

## Committees Meet to Discuss Ambulatory and Office-Based Surgery

On Mar. 23, New York State's Joint Planning/Establishment Committees on Ambulatory Surgery Issues met to review the status of ambulatory surgery centers in the State. The Committee is a joint effort of the State Hospital Review and Planning Council Planning Committee and the Public Health Council Establishment Committee. The NYS Department of Health (DOH) noted that, under the current regulations (which have been in effect since 1998), 93 ambulatory surgery centers (ASCs) have been approved to operate in NYS, of which

81% are proprietary in ownership and 19% are not-for-profit, and 70% are independent and 30% are affiliated with or sponsored by a hospital. At the next meeting, the committees will discuss how to assess the impact of freestanding ASCs on nearby hospitals and whether DOH should modify the process for notifying hospitals and requesting information when ASCs are proposed nearby. GNYHA has been concerned about the impact of freestanding ambulatory surgery centers on nearby hospitals and has called for a moratorium on such facilities pending an

assessment of their impact on hospitals.

On Mar. 30, the NYS Public Health Council/NYS DOH's Committee on Quality Assurance in Office-Based Surgery met and discussed ways to 1) identify, track, and report adverse patient events in office-based surgery settings; and 2) identify data that should be collected to avoid adverse patient events. At the meeting, GNYHA commented in support of draft legislation being reviewed by the Committee that would require office-based surgery practices that perform invasive procedures to become accredited by a nationally recognized accrediting agency and to report adverse events. GNYHA stated that, in order to ensure patient safety, office-based surgery practices should be required to adhere to the same standards as hospitals when performing the same procedures that are performed in hospitals. GNYHA also commented on the need for data on office-based surgery procedures in order to obtain more accurate information about what procedures are being performed in office-based practices. Other organizations commenting in support of the legislation included the American College of Surgeons, the NYS Association of Ambulatory Surgery Centers, and the NYS Association of Nurse Anesthetists. No organizations opposed the legislation. The Committee is expected to issue a report in the next several weeks, which will include its recommendations and will be forwarded to the Public Health Council for its review. ■

### Upcoming GNYHA Member Briefings

#### **Pandemic Influenza Planning: Clinical Guidelines**

**Date:** Monday, April 10, 2006

**Time:** 2:00 p.m.–4:00 p.m.

**Location:** GNYHA Conference Center, 555 West 57th Street, 15th Floor

This meeting will focus on clinical guidelines for managing patients during an influenza pandemic. Marilyn Kacica, M.D., M.P.H., Medical Director, Regional Epidemiology and Infection Control Program at the New York State Department of Health (DOH), and John Morley, M.D., Medical Director, DOH Office of Health Systems Management, will discuss the clinical guidelines in both the U.S. Department of Health and Human Services' *Pandemic Influenza Plan* issued in November 2005 and the DOH plan. For more information, contact Doris R. Varlese at GNYHA; to register, send an e-mail to Laurie Sangirardi at [sangirardi@gnyha.org](mailto:sangirardi@gnyha.org).

#### **Clinical Trial Billing Compliance**

**Date:** Thursday, April 20, 2006

**Time:** 10:00 a.m.–12:30 p.m.

**Location:** GNYHA Conference Center, 555 West 57th Street, 15th Floor

This meeting will address clinical trial billing compliance in light of a major government settlement requiring a large medical center to repay approximately \$1 million to the Federal and State governments for allegedly submitting inappropriate clinical trial charges to Medicare and Medicaid. It will cover the settlement and provide insight on enforcement of clinical trial billing requirements for investigators, research institutions, and research sponsors. Though prior GNYHA briefings have covered this topic, this session will provide updated information and guidance. For more information, contact Deborah Brown at GNYHA; to register, contact Cynthia Araujo at [araujo@gnyha.org](mailto:araujo@gnyha.org). ■