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Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

MedPAC Report Released; Lawmakers Cool to Hospital Cuts

On Mar. 1, the Medicare Payment Advisory Commission (MedPAC) released its annual March report with recommendations for Medicare payment updates for fiscal year (FY) 2007, which

begins on Oct. 1, 2006. The recommendations would cut Medicare payments in all service sectors compared with current law. The report includes several recommendations to Congress that, if enacted, would cut payments to a variety of health care providers. Specifically, it includes a cut to hospitals in the form of reducing the 2007 hospital market basket update, the annual inflation adjustment for goods and services used by acute care hospitals. If MedPAC's recommendations are enacted, the market basket update for both inpatient and outpatient hospital payments would be reduced by an amount equal to half of

MedPAC's productivity estimate of 0.9% (that is, 0.45%). Since the latest Centers for Medicare & Medicaid Services forecast of the 2007 update has been estimated at 3.4%, such a reduction, if enacted now, would give hospitals only a 2.95% payment update for inpatient and outpatient services. MedPAC recommended that inpatient rehabilitation facilities, long term care hospitals, skilled nursing facilities, and home health agencies not receive any payment updates for 2007.

Following the release of the report, the House Ways and Means Health Subcommittee

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Governors Review President's Budget Policies

At the winter meeting of the National Governors Association (NGA), held Feb. 25–28 in Washington, D.C., the nation's governors met to address critical issues in health care, among other topics, and expressed concern over reforms that would result in cost-shifting to states. Of particular interest to governors is President George W. Bush's budget proposal to cap government provider payments, or intergovernmental transfers (IGTs), to states, which is estimated to save \$3.8 billion over five years. Governors expressed their concern over this proposal and additional changes to the Medicaid program following the massive reforms included in the recently enacted Deficit Reduction Act (DRA). Subsequently, the group did not

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NYS DOH Releases Pandemic Influenza Plan

On Feb. 23, the NYS Department of Health (DOH) released its *Pandemic Influenza Plan*, which is designed to assist public health officials and health care providers in preparing for and responding to an influenza pandemic, consistent with the national guidance contained in the U.S. Department of Health and Human Services' (HHS's) *Pandemic Influenza Plan* issued in November 2005. To assist members in their development of pandemic influenza plans, GNYHA held a meeting of its Emergency Preparedness Coordinating Council (EPCC) on Feb. 27, at which DOH reviewed the components of its plan, steps that NYS will be taking, and health care providers' expectations.

The DOH plan is divided into 13 sections, including sections on Healthcare Planning, Infection Control, and Clinical Guidelines. Each section of the plan contains activities related to each World Health Organization Pandemic Period (interpandemic period, pandemic alert period, and pandemic period) for DOH, local health departments, and health care providers. The plan covers, in part:

- the requirement that each hospital have a plan for response to an influenza pandemic, which should be developed by an interdisciplinary team, be an outgrowth of the hospital's biological response component of its existing emergency management plan, and draw heavily from the hospital's plan to address smallpox and other communicable

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tee held a hearing to review MedPAC's recommendations. Subcommittee Chair Nancy Johnson (R-5th CT) opened the hearing by expressing her concern over MedPAC's hospital-related recommendations. Specifically, Rep. Johnson referenced MedPAC's own data that describe hospitals operating at a -2.2% margin nationally, and questioned how any payment cut could be warranted. MedPAC Chairman Glenn Hackbarth responded by redefining the cut as a payment increase since hospitals would still receive some portion of the market basket update. According to Mr. Hackbarth, Medicare spending is unsustainable at its current level of growth and, coupled with the impending retirement of the baby boom generation and prescription drug expenditures, MedPAC's recommendations, he said, attempt to encourage efficiency in the health care delivery system and would drive down expenditures. Rep. Johnson questioned MedPAC's assumptions, underscoring her concern over a market basket cut, and suggested that further study is needed to explore why some hospitals operate more efficiently than others. Rep. Johnson did agree with MedPAC's support for moving to a pay-for-performance system.

Ranking Democrat Pete Stark (D-13th CA) was joined by Rep. Mike Thompson (D-1st CA), Rep. Lloyd Doggett (D-25th TX), and Rep. Rahm Emanuel (D-5th IL) in criticizing the Majority's unwillingness to look for Medicare savings from Medicare Advantage, Medicare's private managed care program. The Minority countered by pointing to previous MedPAC recommendations to level the playing field between Medicare Advantage and the traditional fee-for-service program by eliminating the \$10 billion Medicare Advantage stabilization fund—designed to retain Medicare Advantage plans—and reducing Medicare Advantage payments.

Other witnesses represented HCR/ManorCare, a skilled nursing facility provider; the American College of Physicians; DaVita Patient Services, a large dialysis provider; and Clarian Health Partners, a health care system in Indianapolis. Clarian agreed with MedPAC's recommendations stating that hospital cuts would create opportunities for efficiency. GNYHA, along with the American Hospital

Association and the Healthcare Association of NYS, will continue to press members of Congress to disregard these recommendations, several of which were also included in President George W. Bush's 2007 budget. GNYHA has been actively meeting with the NY Congressional Delegation to underscore the dev-

astating effects of implementing such policies and has been encouraging Republican House members to sign on to a GOP letter opposing any cuts to the Medicare program. As *Skyline News* went to press, 59 Republican House members had demonstrated their support including every Republican in the New York delegation except Congressman Thomas Reynolds (R-26th NY). ■

U.S. Health Spending Will Reach \$4 Trillion and Account for 20% of GDP by 2015

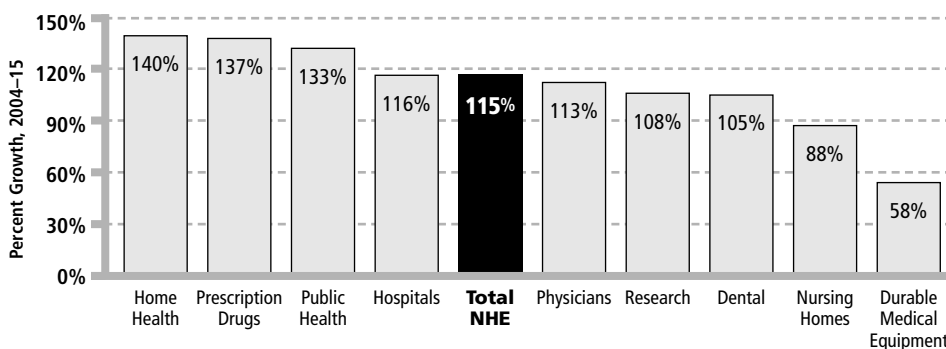
According to a new report by the National Health Statistics Group at the Centers for Medicare & Medicaid Services, released Feb. 22 as a *Health Affairs* Web exclusive, U.S. Gross Domestic Product (GDP) is projected to grow from \$11.7 trillion in 2004 to \$20.2 trillion by 2015, an increase of 72%. At the same time, national health expenditures are projected to grow by 115% from \$1.9 trillion in 2004 to \$4.0 trillion by 2015, making the projected increase in national health expenditures 60% higher than GDP growth. Given these estimates, national health expenditures will grow to 20% of GDP by 2015, up from 16% in 2004. That is, health care will account for \$1 out of every \$5 spent in the United States in 2015.

The report forecasts several interesting trends, notably that the rate of prescription drug spending will moderate and the new Medicare prescription drug benefit likely will not lead to new spending on medications because rebates and discounts offered by pharmaceutical companies are larger than expected. Nonetheless, prescription drugs will constitute the second-highest growing com-

ponent of national health expenditures. The report projects that overall drug spending will reach \$446 billion in 2015, compared with \$188 billion in 2004—a 137% increase. Only home health spending, projected to grow by 140% between 2004 and 2015, trends higher. Hospital and physician spending is projected to grow at the same general rate as overall national health expenditures, or around 115%, whereas nursing home expenditures will grow at a slower rate than total health spending.

The report also projects that health care financing will continue to shift from the private to the public sector. Undoubtedly, the baby boomers' transition from private insurance to Medicare will contribute greatly to this trend. Overall, the public sector's share of national health expenditures will grow by 126% from 2004 to 2015, while the private sector's share will rise by 105%. The *Health Affairs* article concludes that, with national health spending growing in excess of GDP growth each year over the next decade, payers and providers could be forced "to reexamine fundamental questions regarding the delivery and financing of health care services." ■

Projected Growth in National Health Expenditures (NHE) and Component Parts, 2004–15



Source: Based on data from the Centers for Medicare & Medicaid Services.

Business Trade Association Mounts Legal Challenges to Employer Health Spending Requirements

The Retail Industry Leaders Association (RILA), a trade association representing more than 400 companies in the retail industry, filed suits last month challenging laws in Maryland and Suffolk County, New York, that require certain large businesses to contribute to their workers' health care. The lawsuits were filed in U.S. District Courts in Baltimore and Brooklyn.

The Maryland law, which was passed in January after the Legislature overrode the Governor's veto, requires employers with more than 10,000 workers to spend at least 8% of payroll on health care for their employ-

ees, or contribute to a fund that will offset the State's Medicaid expenditures. That law is often referred to as the "Wal-Mart bill," because Wal-Mart stores are currently the only businesses in Maryland that would be affected. Suffolk County's law requires large grocery retailers to set aside \$3 per hour to fund health care costs for each employee. The requirement applies to stores like Wal-Mart, Target, and Kmart. A similar bill enacted in New York City last year has not yet been subject to a legal challenge.

RILA's lawsuit charges that the Federal Employee Retirement Income Security Act

(ERISA), which preempts state laws relating to employer-sponsored health plans, invalidates both the Maryland and Suffolk County laws. RILA also contends that the laws are unconstitutional because they were written to single out certain companies for arbitrary treatment, and that they impose undue burdens on businesses. Supporters of the laws claim that both measures were drafted to avoid ERISA preemption, and both will help spread the cost of health insurance more evenly across businesses. The decisions in these two cases will likely affect similar legislation that is being considered in at least 30 other states. ■

Pandemic Plan *continued from page 1*

diseases;

- the need for health care facilities to plan ahead to address emergency staffing needs and increased demand for isolation, ICUs, assisted ventilation services, and consumable and durable medical supplies;
- recommendations for hospitals on a variety of topics including communication, surge capacity, occupational health, volunteers, triage, and mortuary issues;
- the role of the Health Emergency Response Data System during a pandemic;
- prioritization of the distribution of vaccine and antivirals during a pandemic, which reflects the priorities in the HHS plan; and
- DOH's plans to convene an expert panel to explore altered standards of care if such standards need to be developed when the demand for services and life-sustaining equipment exceeds the supply.

GNHYA has been helping members prepare for a possible influenza pandemic by working with public health and emergency management agencies, participating in exercises, and holding a series of EPCC meetings on pandemic influenza planning. Future meetings will focus on specific aspects of surge capacity, including workforce, supplies, and alternate care facilities, as well as clinical guidelines for caring for influenza patients. Materials from GNYHA's meetings and briefings, together with a copy of the DOH plan, can be found at www.gnyha.org/eprc. ■

Legislative Digest

In the past weeks, the New York State and New Jersey Legislatures took action on the following health care-related proposed legislation.

The following bills have passed the NYS Assembly and have been referred to Senate Standing Committees: **Unintended Pregnancy Prevention Act.** A. 9906 provides access to emergency contraception through a registered nurse or a pharmacist for self-administration by the patient. A. 9906 has been referred to Senate Higher Education. • **External Appeals.** A. 5348 provides that where an external appeal of an insurance claim denial is based on grounds of medical necessity, the insured shall have the opportunity to demonstrate, through his or her health care professional, that the proposed service is more beneficial than any other standard treatment. A. 5348 has been referred to Senate Health. • **Credentialing.** A. 5407 authorizes the Commissioner and Superintendent of Insurance to adopt regulations for the renewal of credentialing and re-credentialing of newly licensed health care professionals to streamline and simplify the process by which health care professionals are credentialed by health care plans and hospitals. A. 5407 has been referred to Senate Health.

The following Assembly bills are currently on the Assembly Calendar for a vote: **Inpatient Services Under CHP.** A. 3029-A includes rehabilitation hospitals within the definition of inpatient health care services under the Child Health Plus law. GNYHA strongly supports A.3029-A because it would allow children to transfer to a more appropriate setting for needed services. • **HCO Accountability.** A. 5408-A holds health care organizations (HCOs) liable for personal injury, death, or damages resulting from their actions or decisions with respect to services they are contractually or legally required to cover or provide. GNYHA strongly supports A.5408-A as a necessary step to ensure that HCOs, such as HMOs, are legally liable for the impact of their actions and decisions on quality of care and patient outcomes. • **Hospital Privileges for Psychologists.** A. 5496 makes it improper for a hospital's governing body to deny staff membership or professional privileges to psychologists based solely on the practitioner's licensure category. GNYHA opposes A. 5496 because it is inappropriate to restrict the governing body from making judgments regarding the nature and scope of its operations. • **Language Assistance.** A. 4111-A requires hospitals to provide language assistance services.

The following bills have been reported out of Assembly Standing Committees and are currently in Codes: **Empire State Nursing Scholarship Program.** A. 2960 provides financial support to nursing students who commit to work in a nurse shortage area or become a nurse educator. GNYHA supports the intent of A. 2960 but recommends the language include any degree-granting nursing program approved by the National League for Nursing. • **Fair Share Health Program & Fund.** A. 9534 requires large employers to contribute appropriately to the increasing cost of health care benefits for employees in New York.

The New Jersey State Legislature recently passed the following bill:

Budget Message Extension. A. 2288/S. 1253, which extends the date by which the Governor's FY 2007 budget message is to be transmitted to the Legislature to Mar. 14, 2006. Current law provides that the budget message is to be transmitted on or before the fourth Tuesday in February. ■

CCLC Outlines Long Term Care Reform Goals at Brooklyn RAC Hearing

On Feb. 24, GNYHA's long term care affiliate, the Continuing Care Leadership Coalition (CCLC), testified before the members of the NYC Regional Advisory Committee (RAC) of the Commission on Health Care Facilities in the 21st Century, in Brooklyn. CCLC outlined goals for reform, highlighting models that member providers are successfully developing and implementing, and making recommendations regarding steps that could further encourage innovation in the long term care delivery system. CCLC applauded the Commission for framing its long term care goals "in terms that transcend the language of 'rightsizing' alone, and that instead speak about a 'vision' for long term care that embraces concepts like expanding the long term care continuum, promoting quality, meeting consumer needs, and even reforming the financing of long term care to promote a more coordinated and integrated system of long term care."

In addition to citing specific examples of how member facilities are already advancing the Commission's goals, CCLC presented

statistics demonstrating how not-for-profit and public nursing homes in NYS have been playing a leading role overall in improving quality and expanding the long term care continuum. In particular, the testimony noted that, "in a State that is split roughly 50/50 between not-for-profit and for-profit long term care providers . . . fully 84% of all nursing facilities that offer home health care services are not-for-profit and public, and fully 79% . . . that offer adult day health care programs are not-for-profit and public." Among CCLC's recommendations for the Commission were that it give weight to qualitative factors—including investments in the workforce and quality, investments in community-based services, and investments in serving specialty populations—when evaluating the importance of individual facilities in the context of their communities, and that it carefully assess the adequacy of the housing supply for older and disabled New Yorkers and encourage the development of solutions to meet growing senior housing needs and make it possible to maintain more individuals in the community. ■

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endorse any of the Medicare and Medicaid reforms included in the President's fiscal year 2007 budget released earlier last month.

NGA Chairman Mike Huckabee, the Republican Governor of Arkansas, expressed his support of the increased flexibility given to states as a result of the DRA and cited provisions such as increased cost-sharing by beneficiaries, states' ability to modify benefits, and the asset transfer rules.

Centers for Medicare & Medicaid Services (CMS) Administrator Mark B. McClellan, M.D., Ph.D., also addressed the group and expressed his hope that states will use this flexibility to create new Medicaid structures. The governors were cautiously optimistic about such reforms actually slowing the growth of health care spending in their states. Dr. McClellan also allayed concerns regarding undue expenses incurred by states related to the recent rollout of the prescrip-

tion drug benefit, launched on Jan. 1, 2006, by reassuring governors that they would receive reimbursements from CMS. Additionally, Dr. McClellan highlighted the President's budget proposals aimed at increasing price transparency for health care services, increasing health care quality reporting, and facilitating the adoption and use of health information technology and electronic medical records. In response, Democratic Governor Kathleen Sebelius of Kansas noted that states are concerned about moving forward with investments in health information technology without national standards for adoption.

President Bush also addressed the group, but limited his health care-related comments to his budget proposal to double the basic science research budget and codify the research and development tax credit within the tax code. ■

Upcoming GNYHA Member Briefings

Pacific Interpreters, Inc. Over-the-Telephone Medical Interpretation Services

Date: Tuesday, March 28, 2006

Time: 9:30 a.m.–11:00 a.m.

Location: GNYHA Conference Center,
555 West 57th Street, 15th Floor,
and via live webcast

Pacific Interpreters, Inc., a leading national provider of over-the-telephone medical interpretation services, now serves more than 400 health care institutions and social service agencies in 42 states, the District of Columbia, and two Canadian provinces. At this briefing, Pacific Interpreters will discuss its services and technology; how the company recruits, assesses, and monitors its interpreters; and the very favorable pricing terms now available to all GNYHA and CCLC members under a recently negotiated GNYHA Services, Inc. group purchasing agreement. For more information or to register, contact Barbara A. Green at GNYHA.

SunGard Seminar: "High Availability Services for Health Care Organizations" and Portfolio Overview

Date: Tuesday, April 4, 2006

Time: 1:30 p.m.–3:30 p.m. (Seminar);

3:30 p.m.–4:30 p.m. (Portfolio Overview)

Location: GNYHA Conference Center,
555 West 57th Street, 15th Floor,
and via live webcast

As part of its group purchasing agreement with SunGard Availability Services, a major provider of business continuity and disaster recovery solutions, GNYHA Services, Inc. will be hosting a two-part program consisting of an educational seminar on "high availability services" for health care organizations and an update on the comprehensive business continuity and disaster recovery portfolio offered by SunGard. The seminar will focus on the latest high availability trends, from electronic vaulting to real-time mirroring, why organizations often require these types of strategies, the technologies available to organizations today, the keys to a successful implementation of a high availability strategy, and pitfalls to avoid. Immediately following the seminar, SunGard representatives will give an overview of the company's comprehensive business continuity and disaster recovery portfolio. All GNYHA and CCLC members are invited to participate in either or both components of this program. For more information or to register, contact Barbara A. Green at GNYHA. ■