



APRIL 21, 2003

Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

NYS Leaders Announce Health Care Funding Restorations

On April 15, NYS Assembly Speaker Sheldon Silver and Senate Majority Leader Joseph Bruno announced an agreement to restore approximately \$1.9 billion in health care and education spending that Governor Pataki had proposed to cut in his Executive Budget. The leaders announced their intention to begin to pass budget legislation the week of April 28. In order to eliminate all of the hospital, nursing home, and

home health cuts and taxes, as well as the Community Health Care Conversion Demonstration Project and Family Health Plus cuts, approximately \$850 million is needed. Over the next few weeks, GNYHA will work intensively with the State Legislature to ensure that these restorations are included in the \$1.9 billion. GNYHA is extremely grateful to Speaker Silver and Senator Bruno for their support. ■

Congress Approves Budget Outline

On April 11, the U.S. House of Representatives and U.S. Senate approved a Budget Resolution for the Federal 2004 fiscal year, which begins on October 1, 2003. The final Budget Resolution eliminated the Medicaid cuts that were in the original House version of the legislation. These cuts, which would have equaled \$93 billion over 10 years, would have had a devastating impact on New York's Medicaid program, reducing Federal funding by more than \$15 billion over 10 years. The elimination of the Medicaid cuts follows earlier action to eliminate more than \$200 billion in Medicare cuts that were originally approved by the House Budget Committee as well. GNYHA worked very hard to ensure that the final Budget Resolution did not contain those cuts. GNYHA is grateful to the New York delegation for its hard work on this issue, including Congressman Tom Reynolds (R-NY), a key member of

the House leadership who opposed the Medicaid cuts, and Congressman Peter King (R-NY), who convinced a number of his Republican colleagues to send a letter to the House leadership opposing new Medicaid cuts. Congressmen Reynolds and King are to be commended.

Other Health Care Funds: In addition to dropping the Medicaid cuts, the Budget Resolution contains a number of items of importance to GNYHA members, including \$400 billion over 10 years for Medicare "modernization" and a new outpatient prescription drug benefit; \$5.6 billion in funding over 10 years for "countermeasures necessary to protect the public . . . from . . . threats of chemical, biological, radiological or nuclear agents"; and \$50 billion over 10 years to increase access to health insurance for the uninsured, and \$7.5 billion over 10 years to enable low-

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Mayor Bloomberg Again Proposes Medicaid Cuts, Hospital Taxes

On April 15, NYC Mayor Michael Bloomberg released his budget proposal for the City's 2003-04 fiscal year, which begins on July 1, 2003. As in the past, the Mayor proposed that the NYS Legislature enact a tax on inpatient hospital stays to create a statewide pool to help defray the costs of the Early Intervention Program (EIP), a State program that the counties and NYC are required to help fund and administer. EIP provides services to children under the age of three who have developmental disabilities. Mayor Bloomberg proposes that the State levy a 2.4% tax on inpatient hospital care to create a statewide Early Intervention pool that the State and counties could use to offset the costs of services for children who are eligible for EI but who are not eligible for Medicaid and, thus, receive no Federal funding. The Mayor estimates that the tax would generate \$150 million in annual savings for NYS and NYC for services provided to children in NYC. GNYHA strongly opposes the hospital tax Mayor Bloomberg has proposed. In his budget address, the Mayor also expressed great concern over the increasing cost of the Medicaid program. While he did call upon the State to eliminate Medicaid cost containment measures that "significantly impact the Health and Hospitals Corporation" as well as the Governor's proposed Medicaid pharma-

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income families to buy in to the Medicaid program on behalf of their disabled children. The Resolution also assumes enactment of the President's Medicaid reform proposal, which would allow states, at their option, to gain more flexibility in designing Medicaid benefits for "optional populations" in exchange for a set amount of money for Medicaid each year. This modified "block grant" for optional populations would allow states that choose the option to draw down \$8.9 billion in additional funding over the first five years, but would assume savings in the next five years so that the proposal is budget-neutral over 10 years.

The Budget Resolution is a broad outline designed to guide the work of the actual committees with jurisdiction over spending programs. As such, it does not actually enact the measures listed above. It will be up to the House Ways and Means, Energy and Commerce, and Senate Finance committees to actually design the Medicare, Medicaid, and other legislation envisioned in the Budget Resolution, which these committees plan to begin doing over the next month. ■

CMS Requests Comments on Wage Index Survey

On April 4, the Centers for Medicare & Medicaid Services (CMS) published a notice about a data collection tool it is proposing to use to develop an occupational mix adjustment to the Medicare wage index, as required under the Medicare, Medicaid & SCHIP Benefits Improvement and Protection Act of 2000 (BIPA). According to BIPA, CMS must complete its initial data collection by September 30, 2003, and must implement the occupational mix adjustment with the FY 2005 prospective payment system (PPS) rates. Comments are due June 3, 2003. This is a very important issue because the occupational mix adjustment will redistribute money away from hospitals in large urban areas to rural and other urban areas. The change will also affect the Skilled Nursing Facility and Home Health prospective payment systems (PPSs).

The former U.S. Health Care Financing Administration, now CMS, originally justified including the effect of occupational mix in the wage index based on the fact that the Medicare diagnosis-related groups (DRGs), which are supposed to capture clinically based

differences in resource consumption, are too broad to adjust effectively for the higher skill mix required to care for the most severely ill patients. Therefore, GNYHA's principal comment on this subject has been, and will continue to be, that CMS must implement refined DRGs concurrent with the occupational mix adjustment in order to preserve the integrity of the PPS. CMS has the administrative authority to implement refined DRGs without Congressional mandate or approval. ■

GNYHA Ventures and CNAPSIS Form Strategic Alliance

GNYHA Ventures, Inc., and CNAPSIS, LLC, have announced a strategic alliance that brings a valuable product for automating the entire Continuing Medical Education (CME) administration process to GNYHA member institutions. CNAPSIS's Web-based tool, *CMEOffice*, reduces paperwork, enhances data reporting, and helps hospitals satisfy CME regulatory and compliance requirements. Some of its unique features are online registration and payment processing of CME programs for physicians and participants, customized registration forms, and remote registration and attendance functions. The system also enables hospitals to coordinate registration, reporting, and data collection activities across departments and organizations, streamline reporting of Grand Rounds attendance, and reduce the possibility of generating inaccurate data. This product enables CME professionals to restructure their relationships with medical institutions to improve regular communications, generate new revenues, and further streamline the administrative process. GNYHA Ventures will hold two briefings to demonstrate *CMEOffice* to GNYHA member representatives; see "Upcoming GNYHA Briefings" on page 4. ■

Medicare reimbursement "cap" on residency positions, and an expansion of the scope of practice of nurse practitioners and physician assistants. ■

HOLD THE
DATE!

GNYHA 2003 Annual Reception and Cocktail Buffet
Thursday, June 5, 2003 | 6:00 p.m. | Gotham Hall

Federal COGME Hears Report on Need for Increased Physician Workforce

At a meeting last week of the Federal Council on Graduate Medical Education (COGME), the members discussed a working draft of a report on the adequacy of the physician supply through 2020. The draft report concludes that there will be a physician shortage in 2020, assuming the current level of production and practice patterns of physicians, and patterns of service use. The draft was prepared by the Center for Health Workforce Studies (CHWS), SUNY Albany, under contract to COGME. According to the draft report, the demand and the need for physicians in 2020 will significantly exceed the national supply. Several factors underlie the trend affecting the demand and need for

physician services, including population growth and aging, increasing health care utilization, and the nation's expected economic growth. The model being used by CHWS assumes that the supply will continue to grow but not as rapidly as the demand and need for services. The relatively slow growth in the supply of physicians reflects the steady level of production over the past 20 years, the aging of the physician workforce, and new physician lifestyle choices. The draft report included several potential recommendations, including a modest increase in the number of U.S. medical school positions, an increase in the number of training positions available in the United States and the removal of the

NYS Court of Appeals Calls for Legislature to Revisit Medical Malpractice Judgment Provisions

On April 8, the NYS Court of Appeals announced a decision in *Desiderio v. Ochs, et al.*, that upholds an interpretation of State law that will result in the plaintiff potentially receiving \$80 million in excess of what the jury had awarded for economic damages. GNYHA had filed an amicus curiae brief in the case on behalf of the defendants and will now be pursuing the legislative changes needed to correct the problem.

The case focused on an interpretation of provisions of NYS's Civil Practice Laws and Rules that address how to structure a future damages judgment and that were adopted to reduce the cost of professional liability insurance. The *Desiderio* case involved a jury award of \$50 million, the bulk of which represented future economic damages to be paid over 55 years. With respect to the largest portion of the award, nursing care costs, the record reflects that the jury carefully determined what the first-year costs would be and then applied an average inflation factor to identify the amount that should be paid to the plaintiff for each of the remaining 54 years, for a total award of \$40 million. However, when the trial judge structured the judgment to identify the present value of the award, she treated the total amount awarded

for nursing care costs as a lump sum as though it had not already been adjusted to include an inflation factor. She then divided the lump sum by 55 and treated that figure as the first-year nursing care cost (even though the jury intended that amount to be the payment in 2030). She then inflated the "first-year" figure by an additional inflation factor, and so on, 54 times, bringing the total figure through the double-counting of inflation to a sum many times the amount intended by the jury. The trial court also added to the problem by failing to treat each year's inflated costs as separate amounts for pre-

sent-value calculation purposes. The Court acknowledged the potential for a "dramatic discrepancy between the jury award and the ultimate recovery," but stated that it was compelled to follow the direction of the statute for structuring a judgment. The Court did, however, urge the Legislature to revisit the statute to "determine whether it is achieving its intended purposes or overcompensating the plaintiffs." GNYHA will be working to pursue the legislative changes required to clarify and correct the provision. ■

Mayor Bloomberg *continued from page 1*

cy-acute care funding "swap" between the State and the counties, the Mayor also called upon leaders in Albany to contain Medicaid costs, allocating reductions "across the spectrum of the Medicaid system—appropriately targeting both recipients and providers." The Mayor is hoping for \$250 million in savings from Medicaid cost-containment measures. As in the past, the Mayor also called for the repeal of the home care savings targets; an increase in the Federal Medicaid matching rate; the repeal of Federal restrictions on the ability of legal immigrants to access the Medicaid program; and the enactment of a Medicare prescription drug benefit, which could relieve the City of Medicaid funding responsibilities. In addition, the Mayor proposes savings for the Fire Department (FDNY) by reducing basic-life-support ambulance tours conducted by FDNY ambulances by 37 through cuts in overtime. ■

Legislative Digest

The following bills were passed by the NYS Assembly over the last several weeks:

Patient Notification of Test Results:

A.5408 would require labs to notify patients when test results are made available to health care practitioners. GNYHA opposes this legislation because it would interfere with physician-patient relationships and would overwhelm practitioners with the need to make and receive calls regarding lab tests, compromising quality and efficiency.

• **Health Insurance Rights:** A.3441 requires a managed care peer reviewer to be trained in the same or similar specialty as the treating physician. A.3445 requires insurers to notify providers of adverse determinations. GNYHA supports both provisions. ■

GNYHA Web Site News: SARS

GNYHA has created a new page on its Web site that contains information about Severe Acute Respiratory Syndrome (SARS). The page is included at www.gnyha.org under a new section of GNYHA's Emergency Preparedness Resource Center entitled "Emerging Public Health Issues." The materials include guidelines developed by the NYC Department of Health and Mental Hygiene, NYS Department of Health, Centers for Disease Control and Prevention, and World Health Organization. The page covers triaging, diagnosing, treating, and managing suspect cases, including infection control measures for protecting other patients, health care workers, and close contacts of SARS patients. Many of the materials for patients and their families are available in several languages. ■

National Panel Discusses Revision of Nursing Home Performance Measures

On April 14, 2003, GNYHA staff provided commentary at the National Quality Forum (NQF) Nursing Home Performance Measures Steering Committee meeting in Washington, D.C., which was held to develop a set of recommendations on nursing home performance indicators. NQF is under contract by the Centers for Medicare & Medicaid Services (CMS) to identify specific performance measures for use in the Nursing Home Quality Initiative (NHQI), an effort to publish quality measures for nursing homes nationwide. At the

meeting, CMS confirmed its intention to modify the initial measures based on the results of NQF's national consensus process, which is expected to conclude in four to six months. As an NQF member, GNYHA will continue to have the opportunity to comment on the appropriateness of the set of measures recommended by the NQF steering committee. More information about the NHQI is available on the GNYHA Web site, www.gnyha.org. The most recent validation reports are available on the CMS Web site, www.cms.hhs.gov/providers/nursinghomes/nhi/. ■

GNYHA Members Testify at NYC Council Emergency Preparedness Hearing

On April 15, GNYHA and several of its members took part in a hearing on emergency preparedness before the NYC Council, convened jointly by the Committees on Health and Public Safety to assess the readiness of NYC's public health infrastructure to respond to nuclear, biological, and chemical attacks. GNYHA testimony outlined its members' and the GNYHA Emergency Preparedness Coordinating Council's work; collaborative work with local, State, and Federal agencies; and the need for

increased funding to assist hospitals in their preparedness efforts, as documented in GNYHA's *Hospital Expenditures for Emergency Preparedness* survey. GNYHA members whose representatives testified included the NYC Health and Hospitals Corporation, Saint Vincent Catholic Medical Centers, NYU Hospitals Center, and North General Hospital. GNYHA appreciates the opportunity given to its members to highlight their efforts and financial needs in this critical area of public security. ■

HIPAA Privacy Deadline Arrives; Compliance Work Continues

Last week, the work of GNYHA member facilities to comply with the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) came to fruition on the compliance date of April 14, 2003. While GNYHA members report successful implementation, many note the need for ongoing compliance monitoring and fine-tuning of operations. To provide support, GNYHA's HIPAA Privacy Workgroup will continue to meet, and GNYHA will maintain its efforts to advocate for modifications to the Privacy Rule and monitor its enforcement. GNYHA will continue to advocate for a modification to reduce the administrative burden of the Privacy Rule's accounting of disclosures requirement, and will solicit member comments on the interim enforcement rule for HIPAA's Privacy, Security, and Transaction Set Rules released by the U.S. Department of Health and Human Services on April 17. Efforts on the HIPAA Transaction Sets will continue in anticipation of the October 16, 2003, compliance deadline.

Because of strong member concerns regarding implementation, GNYHA recently sent a letter to the Centers for Medicare & Medicaid Services (CMS) asking CMS to address these implementation concerns and their impact on hospitals' and nursing facilities' cash flow. For the Security Rule, GNYHA will increase its efforts to support member

compliance with these regulations and is assessing opportunities to share the costs of developing compliance strategies. ■

SHRPC Update

At its April 10 meeting, the State Hospital Review and Planning Council (SHRPC) gave contingent approval to the following GNYHA member projects: **North General Hospital**, certification of a freestanding adult cardiac catheterization service; **NYC Health and Hospitals Corporation (HHC)—Jacobi Medical Center**, certification of a freestanding adult cardiac catheterization service; **HHC—Elmhurst Hospital Center**, addition of second cardiac catheterization laboratory; **HHC—Queens Hospital Center**, certification of 8 pediatric beds; **New York Methodist Hospital**, certification of 6 neonatal intensive care and 15 maternity beds and related construction; **Center for Nursing and Rehabilitation, Inc.**, establishment of an AIDS long term home health care program in Bronx County; **Isabella Geriatric Center**, expansion of its long term home health care program into Bronx County; **HHC—Jacobi Medical Center**, establishment of a long term home health care program to serve Bronx County; **Village Center for Care**, initiation of a long term home health care program in Bronx County; **Saint Vincent Catholic Medical Centers—Mary Immaculate Hospital Home**

Upcoming GNYHA Briefings

Disclosure of Adverse Events and Mediation Strategies

Date: Wednesday, April 23, 2003

Time: 9:30 a.m.—12:30 p.m.

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

This third briefing in the GNYHA "Beyond Risk Management" series will explore how to discuss adverse outcomes as well as skills and techniques used in mediation, facilitation, and conflict management to enhance patient-provider communication about adverse outcomes, follow-up, and how to discuss early resolution of claims. For more information contact Terri Straub, and to register contact Rosanne Denaro, at GNYHA.

Automated CME Administration from CNAPSIS (New Jersey & Manhattan)

Date: Thursday, April 24, 2003 (NJ); Friday, April 25, 2003 (NYC)

Time: 9:30 a.m.—11:30 a.m. (NJ & NYC)

Location: NJ Council of Teaching Hospitals, Conference Room, 154 West State Street, Trenton, NJ; GNYHA Conference Center, 555 West 57th Street, 15th Floor (NYC)

GNYHA Ventures, Inc. will hold two briefings, in NJ and NYC, to demonstrate *CMEOffice*, a valuable product from CNAPSIS, LLC, designed to automate the entire Continuing Medical Education administration process for hospitals (see story on page 2). For more information or to register, contact Sahar Zodeh at GNYHA.

NIDA Federal Funding Opportunities

Date: Friday, April 25, 2003

Time: 2:30 p.m.—4:30 p.m.

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

At this briefing, two National Institute on Drug Abuse (NIDA) staff members will give presentations on the grants available and the grant process at NIDA. NIDA's grant programs cover interventions and dissemination in a wide variety of populations, as well as scientific research in a number of disciplines. The briefing is intended for grants management staff and program staff who work with substance abuse or related areas. For more information contact Gary Sokolow, and to register contact Jennefer Vicioso, at GNYHA. ■

Health Agency, expansion of long term home health care program into Bronx County.

SHRPC Membership: James Durante, the former Chairman of SHRPC, has resigned. Two new members have been appointed to SHRPC: Lucille Sheedy of the Wyoming County Community Health System and Howard Berliner, Sc.D., of the Milano Graduate School of the New School University. ■