



MAY 5, 2003

# Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

## NYS Legislature Passes Budget That Protects Health Care Community from Drastic Cuts; Governor Pataki Threatens Veto

Last week, the NYS Legislature, led by Assembly Speaker Sheldon Silver and Senate Majority Leader Joseph Bruno, passed a budget for the 2003–04 State fiscal year that protects New York's health care system from drastic funding cuts and new provider taxes. Specifically, the plan protects New York's hospitals, nursing homes, and home health providers from all of the new hospital, nursing home, and home health-specific Medicaid cuts Governor George Pataki proposed in January; eliminates the proposed new taxes on hospitals and home health agencies; reduces the nursing home tax enacted last year; and extends the Health Care Reform Act (HCRA) for two years, with no reductions in hospital pool funding. Given the fact that the State is facing an \$11.5 bil-

lion deficit, this development is remarkable, and is a testament to the commitment of Speaker Silver, Senator Bruno, and the State Assembly and Senate to the health of all New Yorkers, as well as to the hard work of GNYHA's members, GNYHA, and the Healthcare Education Project (a joint initiative of GNYHA and 1199 SEIU).

Governor Pataki is expected to veto the Legislature's budget, including the health care funding restorations. An attempt to override the Governor's budget vetoes is also anticipated. Last week, GNYHA met with many members of the State Legislature to thank them for their support of the health care community and to urge them to remain steadfast in their support. In addition, the Healthcare Education Project is running television, radio, and print advertisements

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## NYC Area Hospitals Stand Ready for SARS

Hospitals in the NYC region have built upon their bioterrorism and emergency preparedness planning activities in order to be ready to treat potential Severe Acute Respiratory Syndrome (SARS) patients. Although the numbers of both suspect and probable SARS cases are relatively low in the NYC region, area hospitals have undertaken significant steps to ensure that they can rapidly identify, treat, and manage potential SARS patients, thus maximizing the ability to contain the disease. Beginning with the issuance of the Centers for Disease Control and Prevention's (CDC's) initial advisory on the subject and, in turn, the NYC Department of Health and Mental Hygiene's (DOHMH's) health alert of March 15, 2003, area hospitals have been vigilant about identifying potential SARS cases, implementing procedures to rapidly identify and isolate cases, and reinforcing the importance of infection control procedures. Recent experience with SARS in Toronto and Southeast Asia underscores the importance of these procedures for containing the spread of SARS. In Toronto, the transmission problems occurred mainly in the health care setting. The CDC has been working with officials there to assist them and to learn from their experiences.

The framework for the ability of area hospitals to prepare rapidly for SARS is their extensive preparation for possible terrorist attacks, including improved communication systems, developing revised and rapid triage procedures to ensure the ability to identify

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## Second Round of Terrorism Preparedness Funding Expected to Be Announced Shortly

The U.S. Department of Health and Human Services (HHS) is expected to announce by mid-May its awards of the first 20% of approximately \$1.4 billion in terrorism preparedness aid earmarked for states and certain localities. The funding represents the second round of Federal funding for improving the nation's public health infra-

structure and bolstering health care provider preparedness. As was the case with the first round of funding, part of this second round (\$870 million) will be distributed through grants from the Centers for Disease Control and Prevention (CDC) to states and localities for building their basic public health system's

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## NYC Hospitals Stand Ready for SARS *continued from page 1*

and isolate patients with possible infectious diseases such as smallpox, and providing extensive and continual training to health care personnel in areas such as bioterrorism and incident command. In addition, the region as a whole has implemented a system for rapidly disseminating guidance from public health officials and emergency managers to ensure that every hospital receives the information it needs to prepare and respond.

**Containment of SARS in NYC Region:** NYC and NYS report that the State's total number of suspect and probable SARS cases is 45, with 20 of the cases having been reported in NYC. Of those 45 cases, only six meet the CDC's definition of "probable SARS," although even those cases could prove not to

be SARS. In NJ, the total number of suspect SARS cases is reported to be five. All of the cases reported in both states involve individuals who had traveled to either Southeast Asia or Toronto, except for one individual in NJ who was visited by a family member suspected of having SARS. In addition, all of the patients have either recovered or are recovering.

**GNYHA Activities:** GNYHA has been continuously providing its members with alerts and

guidelines issued by NYC, NYS, NJ, and the CDC in order to assist members with their planning activities. All of these materials have been posted on the SARS page of GNYHA's Emergency Preparedness Resource Center, [www.gnyha.org](http://www.gnyha.org). GNYHA's Emergency Preparedness Coordinating Council has also met to plan for the possible need to care for a large number of SARS cases, and GNYHA, with DOHMH and the NYS Department of Health, will offer a member briefing on hospital response plans for SARS on May 12. ■

### Upcoming GNYHA Briefings

#### **Nursing Magnet Recognition Program Standards**

**Date:** Tuesday, May 27, 2003

**Time:** 1:30 p.m.–4:30 p.m.

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

The Nursing Magnet Recognition Program, which was developed to recognize health care organizations that provide the very best in nursing care, has been shown to attract, retain, and develop workforce excellence. This briefing is a follow-up to one held at GNYHA on December 10, 2002, and will focus on the interpretation and updates of the standards for Magnet Recognition. GNYHA encourages vice presidents of nursing, nurse managers, nurse recruiters, shift supervisors, medical directors, human resources staff, and hospital administrators to attend this session. For more information contact Terri Straub, and to register contact Barbara Marino, at GNYHA.

#### **Empire Blue Cross Blue Shield Hospital Portal**

**Date:** Friday, May 30, 2003

**Time:** 9:30 a.m.–11:30 a.m.

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

This briefing will feature a demonstration and training session on Empire Blue Cross Blue Shield's hospital Web portal. The portal will feature several functions including eligibility verification, pre-certification submission and inquiry, and claims status inquiry and response. For more information contact Ellen Lukens, and to register contact Theresa Simon, at GNYHA. ■

## NYS Legislature Passes Budget

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statewide, and is conducting a massive direct mail campaign to urge support for the Legislature's budget.

**Hospitals:** The Legislature's budget eliminates all hospital-specific Medicaid cuts proposed by the Governor and eliminates the proposed 0.7% tax on hospital gross receipts, sparing hospitals from over \$600 million in lost revenue. The hospital Medicaid cuts rejected by the Legislature's budget include elimination of the trend factor, reductions in the indirect medical education (IME) adjustment, limitation on case payment rates to the lower of the peer group average or the current blended rate, elimination of the length-of-stay factor applied to the volume adjustment, a 5% reduction for exempt units and exempt hospitals, and a freeze on specialty clinic rates.

**HCRA:** The Legislature's budget extends HCRA, which is due to expire on June 30, 2003, through June 30, 2005. The Legislature would not reduce the hospital pools, including the bad debt and charity care pool or the graduate medical education pool, but it accepted the Governor's proposal to dedicate monies for the final two years of the Community Health Care Conversion Demonstration Project (years 6 and 7) to HCRA pools to avoid the necessity of reducing HCRA funding as a result of the State deficit.

**Nursing Homes:** The Legislature's budget would eliminate all nursing home-specific Medicaid cuts proposed by the Governor and reduced from 6% to 5% in 2003–04 the reim-

bursable nursing home assessment enacted last year, and from 5% to 2.5% in 2004–05, with full expiration of the assessment thereafter. The Legislature's budget, therefore, spares nursing homes from over \$400 million in lost revenue. The nursing home Medicaid cuts rejected in the Legislature's budget include elimination of the trend factor, implementation of a regional average reimbursement methodology, implementation of a Medicaid-only case mix adjustment, and elimination of the return-on-equity cut for proprietary homes. The Legislature's budget also contains a provision that would encourage nursing homes to refinance debt in order to gain savings from lower interest rates, which would also reduce Medicaid capital costs for the State.

**Home Care:** The Legislature's budget would eliminate the Medicaid home care trend factor cut proposed by the Governor and rejects the proposed 0.6% assessment on home care agencies, thus sparing the home care community from over \$70 million in lost revenue. The Legislature did not agree to stop the NYS Department of Health from conducting a new utilization review program directed at certified home health agencies.

**Other Items:** The Legislature rejected the Governor's proposed reduction in income eligibility levels (from 150% of the Federal poverty level to 133%) for parents wishing to enroll in Family Health Plus. The Legislature also rejected the Governor's proposal to swap responsibilities with the counties, under which the State would pick up 100% of State and local Medicaid pharmacy costs while the county share of hospital and clinic spending would rise from 25% to 37%. ■

# GNYHA Staff Invited to Participate in AHRQ Patient Safety Program

The Agency for Healthcare Research and Quality (AHRQ) has invited GNYHA Special Counsel Lorraine M. Ryan, Esq., to participate in a three-person team representing NYS in a program designed to promote the successes and challenges of efforts to improve patient safety. AHRQ, an agency of the U.S. Department of Health and Human Services, supports research designed to improve the outcomes and quality of health care, reduce its cost, address patient safety and medical error, and broaden access to effective services. The U.S. Congress has appropriated funds for AHRQ to support research on ways to improve patient safety as well as to disseminate research results to health care policymakers and decision-makers.

The NYS team will present lessons learned from the New York Patient Occurrence Reporting and Tracking System (NYPORTS), the mandated incident reporting program for hospitals in NYS. NYPORTS has been in exis-

tence for some five years and GNYHA has been involved with its development from the start. GNYHA has actively promoted the effective use of NYPORTS to enhance patient safety efforts in hospitals and has held numerous programs and NYPORTS user group meetings to help its members understand and implement NYPORTS. GNYHA has also included NYPORTS training and use as part of its larger root cause analysis training ses-

sions, which it has provided at many GNYHA member hospitals.

The primary goal of the AHRQ program is to provide participants with usable information that can be put into practice to make improvements in their State's health care systems. GNYHA will disseminate information from the program to its members through its various quality management and other related committees. ■

## HRSA Announces Nurse Retention and Recruiting Grants

The Health Resources and Services Administration (HRSA) has announced the availability of \$9 million in funding to retain and recruit nurses through three separate requests for applications (RFAs): 1) Career Ladder, 2) Internship and Residency Programs, and 3) Enhancing Patient Care Delivery Systems. The RFAs are part of HRSA's "Nurse Education, Practice and Retention" grant program and are the first RFAs to be announced under the Nurse Reinvestment Act of 2002. The Act, which was signed in August 2002, authorizes new programs to increase the number of qualified nurses and the quality of nursing services in the United States. Funding to implement the new programs was appropriated by Congress in February 2003. Program applications can be downloaded at the HRSA Web site, [www.bhpr.hrsa.gov/nursing/reinvestmentact.htm](http://www.bhpr.hrsa.gov/nursing/reinvestmentact.htm). Applications for all three programs are due June 6, 2003. ■

## Second Round of Terrorism Preparedness Funding *continued from page 1*

ability to respond to threats, and part of the funding (\$489 million) will be distributed through grants from the Health Resources and Services Administration (HRSA) to states and localities for enhancing provider preparedness. The chart below outlines the amounts that are designated to be distributed to areas in which GNYHA members are located.

**Preparedness Funds:** The \$489 million available for provider preparedness through HRSA is approximately four times the amount that was available through the initial round of HRSA grants, although that initial round resulted in very small grants to each hospital. In NYC, for example, each hospital received only \$40,000 to prepare for terrorism. Outside of NYC, in the rest of NYS, hospitals received only \$10,000 each, except for designated regional resource centers that were given larger grants but that also were required to undertake significant responsibilities for assisting surrounding hospitals with activities such as implementing the pre-event smallpox vaccination program.

**Distribution of Funds:** To address concerns about the length of time it took to distribute the first round of funding, HHS announced that states and localities could apply by April

18, 2003, for up to 20% of the hospital funding and that the awards, if plans were approved, could be announced by mid-May and distributed to current hospital grantees under the round one contracts. This process is intended to help to prevent the time lag that dogged last year's distribution process, which was caused in part by the double-granting process—that is, states and localities had to apply for funding from HRSA, and hospitals, in turn, had to apply for funding from the states and localities. Both NYC and NYS have applied for the early funding, which would, if approved, result in distributions of \$35,700 to each hospital in NYC and \$22,900 to each hospital outside NYC throughout the State. Funds are to be used for continuation of current activities including implementation of the pre-event smallpox vaccination of health care workers.

Both NYC and NYS will be preparing plans to submit to HRSA for distributing the remaining 80%, which will not be awarded until August 31, 2003. It is expected that the focus of the distribution of the remaining 80% will be on continued strengthening of the health care system to respond to terrorism including improving surge capacity for mass casualty events. ■

New HHS Funding Available Through CDC and HRSA for Terrorism Preparedness			
State/Locality	A V A I L A B L E F U N D I N G ( \$ )		
	CDC	HRSA	Total
Connecticut	\$11,960,524	\$6,197,207	\$18,157,731
New Jersey	22,248,528	13,878,940	36,127,468
New York State	27,794,404	18,019,873	45,814,277
New York City	20,881,716	12,858,383	33,740,099
Rhode Island	7,147,493	2,603,466	9,750,959

## CMS Launches Home Health Quality Initiative Pilot

**O**n May 1, the Centers for Medicare & Medicaid Services (CMS) launched the pilot phase of the Home Health Quality Initiative (HHQI) in Florida, Massachusetts, Missouri, New Mexico, Oregon, South Carolina, West Virginia, and Wisconsin. Similar to the Nursing Home Quality Initiative, the HHQI will provide new performance information to the public regarding home health agencies and will provide agencies with quality improvement resources through state-based Quality Improvement Organizations (QIOs). IPRO is the QIO designated to implement the HHQI in New York. During the pilot phase, CMS will report 11 measures that were derived from data submitted by agencies through the Outcomes and Assessment Information Set (OASIS). The 11 measures are a subset of 41 OASIS outcome measures that have been generated through the Outcomes-Based Quality Improvement System over the past several years in New York. To learn more about the HHQI, visit the CMS Web site at <http://cms.hhs.gov/quality/hhqi>. CMS will use the experience of the pilot states to expand the public reporting of home health quality measures nationwide in fall 2003. The public will be able to view these measures for the pilot and the national launch on the Home Health Compare Web site ([www.medicare.gov](http://www.medicare.gov)). ■

## HHS Releases HIPAA Enforcement Regulation

**T**he U.S. Department of Health and Human Services (HHS) issued its enforcement rule for the Health Insurance Portability and Accountability Act of 1996 (HIPAA) on April 17. The regulations outline the process for imposing civil monetary penalties under HIPAA, including investigating potential violations, notification of a violation, and requesting a hearing and appealing the findings of that hearing. According to the HIPAA statute, the Secretary may not impose penalties of more than

\$100 for each violation, and the total amount imposed for violations of an identical requirement may not exceed \$25,000 within a calendar year. The regulation reiterates HHS's complaint-driven approach to enforcement and its commitment to encouraging voluntary compliance. Issued as an interim final rule, the enforcement regulations go into effect on May 19, 2003, and will expire 16 months later. If you have questions concerning the enforcement rule, contact Susan Stuard or Ellen Lukens at GNYHA. ■

## CMS Testing New MDS Instrument

**T**he Centers for Medicare & Medicaid Services (CMS) has published a draft "version 3.0" of the Minimum Data Set (MDS), an assessment tool used in nursing facilities under the Medicare program that is the basis for data collection for payment and performance measurement. CMS is beginning a pilot test of the MDS 3.0 in Veteran's Administration nursing facilities. It will do a national validation during winter 2003-04, and it intends to make the new instrument operable by December 2004. To address concerns about the utility and accuracy of the current MDS 2.0, developers of the MDS 3.0 updated the technological platform; incorporated widely used scales for pain, depression, and mobility; and added a new section to collect quality-of-life information. CMS attempted to address provider con-

cerns regarding the paperwork burden of the MDS 2.0 by integrating drop-down menus, allowing for skip patterns, and consolidating and eliminating some items. In August 2001, GNYHA provided CMS with recommendations for improving and streamlining the MDS 2.0, many of which are reflected in the shorter Medicare Prospective Payment System (PPS) Assessment Form, released in July 2002, for assessments done solely for Skilled Nursing Facility PPS purposes, and in CMS's proposal for a new and improved MDS 3.0. GNYHA will continue to work with members to develop recommendations and will continue its conversations with CMS about the MDS 3.0. The draft MDS 3.0 is on the CMS Web site at [www.cms.hhs.gov/providers/nursinghomes/nhi/draftmds30.pdf](http://www.cms.hhs.gov/providers/nursinghomes/nhi/draftmds30.pdf). GNYHA will consolidate member recommendations on the MDS 3.0 and provide them to CMS at a Town Hall Meeting on June 2, 2003. For more information, contact Roxanne Tena-Nelson at GNYHA. ■

## GNYHA Briefing Series Turns to Disclosure of Adverse Events and Mediation Strategies

**T**he third briefing in GNYHA's "Beyond Risk Management" series, held on April 23, clarified how greater public awareness of unanticipated adverse outcomes has increased the public's expectation that the health care community will take more deliberate action to prevent, manage, and communicate these events. The briefing explored how the skills and techniques used in mediation, facilitation, and conflict management can enhance patient-provider communication about adverse outcomes, how to

follow up on those communications, and how to discuss early resolution of claims. Participants were shown how patients' reactions and perspectives can provide valuable information for developing and/or improving hospital-based patient safety processes. Role-playing was used to demonstrate how honest conversation, without fear or defensiveness, about the medical error leads to improved patient-provider relationships and may avert potential litigation. Lack of information and provider unresponsiveness are among the

reasons patients file malpractice claims; therefore, error disclosure constitutes sound risk management. In addition, providers are required by regulatory authorities, accrediting bodies, and professional ethics to disclose adverse or unanticipated outcomes. Speakers at the briefing included Chris Stern Hyman, J.D., Medical Mediation Group LLC; Carol Liebman, Clinical Professor, Columbia University School of Law; and Marc Fleisher, Mediator and Counselor-at-Law. For more information, call Terri Straub at GNYHA. ■