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Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

Senators Weigh in on Teaching Hospital Cut

On August 1, 13 Republican and 27 Democratic U.S. senators sent a letter to Senate Majority Leader Bill Frist (R-TN) to express support for repealing the Medicare reimbursement rate cut to teaching hospitals that took effect on October 1, 2002. The letter, which was spearheaded by Senators Kay Bailey Hutchison (R-TX) and Edward M. Kennedy (D-MA), says that the senators would like to see the final Medicare prescription drug bill, which House and Senate leaders are now negotiating, increase the indirect medical education (IME) adjustment to 6.5% and keep it at that level for the next 10 years. The letter was also signed by Sena-

tors Charles E. Schumer, Hillary Rodham Clinton, Frank Lautenberg, and Jon Corzine. This letter is similar to another one that is being circulated among House Republicans by Congressman Christopher Shays (R-CT), which, at press time, had more than 30 Republican signatories, including New York metropolitan area Congressmen Peter King, Vito Fossella, and Christopher Smith. The Shays letter will be sent in September. GNYHA has been working with teaching hospitals nationwide, the Association of American Medical Colleges, and the American Hospital Association to repeal the IME cut, and is grateful to the New York, New Jersey, and Connecticut

members of Congress for their support.

Conferees Reach Agreements: Meanwhile, the House and Senate conference committee charged with ironing out the differences between the Medicare prescription drug bills passed by the House and Senate earlier this year have announced tentative agreement on several portions of the bill, including regulatory reform provisions (designed to make the Medicare program easier to understand for both beneficiaries and providers) and a Medicare prescription drug discount card. The regulatory reform section of the bill contains a number of provisions that the provider

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Medicaid Task Force Meets

On July 28, the NYS Senate Medicaid Reform Task Force and Advisory Panel held its first public roundtable discussion in Albany. The meeting kicked off with a statement by Senate Majority Leader Joseph L. Bruno, who expressed concern about the increasing costs of the Medicaid program.

"The high cost of the Medicaid program would be fine, if only those who truly needed care were getting it," Senator Bruno said. He went on to say that he hopes the Task Force will create solutions so costs can be contained without affecting access to health care. The rest of the meeting, which focused mainly on scheduling and organizational issues, was

chaired by the Task Force's Co-chair, Senator Ray Meier, Republican from the Utica area, who is also Chairman of the Senate Social Services Committee. Senator Meier stated that the mission of the Task Force is to develop a long-term vision regarding the Medicaid program.

"The Task Force shall explore Medicaid cost containment measures to balance affordability without limiting access to, or compromising quality in, the Medicaid program," Senator Meier said. The Advisory Panel is expected to break down into

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NYS Medicaid Working on Payment for Drug-Eluting Stents

The NYS Medicaid program is working on a plan to pay for a portion of the higher costs of drug-eluting cardiac stents, which have been hailed as a breakthrough technology in the treatment of coronary artery disease. The new stent, which received FDA approval in April,

slowly releases a drug that inhibits re-clogging of newly unblocked arteries and was recognized for Medicare reimbursement on an expedited basis.

Governor George Pataki signed a bill on July 23, 2003 (see *Skyline News*, July 28, 2003) that will allow the NYS Department of Health (DOH) to provide Medicaid reim-

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CMS Proposes Hospital Outpatient Rates for 2004

On August 6, the Centers for Medicare & Medicaid Services (CMS) issued its proposed rule for calendar year 2004 outpatient prospective payment system (OPPS) rates. Comments are due by October 6, 2003. The national average rate would increase by 3.8% from 2003; however, the net increase for hospitals in the NYC and Nassau-Suffolk metropolitan statistical areas would

be only 1.3% and 1.5%, respectively, because of significant reductions in the wage indices in those areas (see story below). Other major provisions are described below.

Payment for Drugs That Are Not Packaged:

CMS proposes to continue its policy of creating separate ambulatory payment classifications (APCs) for drugs that cost more than \$150 per encounter, except for drugs whose

pass-through status expires as of December 31, 2003, and drugs currently reimbursed under a separate APC, which would receive payment under a separate drug APC even if the cost per encounter is less than \$150.

Drug and Device Coding: On the bill for an episode of care, hospitals are currently only required to code drugs and devices that are paid through separate APCs. CMS is proposing to require hospitals to report codes for all drugs and devices, even if the item is packaged into an APC.

Emergency and Management (E/M) Services: CMS is evaluating a proposal to create new hospital billing codes for E/M services. Hospitals currently use the same codes as physicians to bill for emergency room and clinic visits even though these codes do not accurately reflect hospital resource use. CMS stated that it will not implement any changes until the public has an opportunity to comment on the proposal and hospitals have had adequate time to train personnel and make required systems changes. ■

CMS Releases FY 2004 IPPS Final Rule

On August 1, the Centers for Medicare & Medicaid Services (CMS) published its final rule for the fiscal year (FY) 2004 inpatient prospective payment system (IPPS) rates in the *Federal Register*. The new rates take effect on October 1, 2003. The standardized amount increased slightly from the proposed rule, yielding a 4.1% increase over the FY 2003 rates. However, significant decreases in the wage indices for the NYC and Nassau-Suffolk metropolitan statistical areas (MSAs) reduced the net increase for hospitals in those MSAs to 1.2% and 1.5%, respectively. Other issues are described below.

Wage Index Policy: CMS will issue shortly a separate proposal on the final survey instrument; therefore, the September 30, 2003, deadline for submitting occupational mix data will be extended. With respect to new definitions of the MSAs issued by the Federal

Office of Management and Budget in June, CMS said it would not automatically adopt the new MSAs as labor markets for wage index purposes, but would first study the effect of changing the labor markets and would issue a proposed rule if the agency thought changes would be appropriate.

Outliers: As expected, the outlier threshold was reduced significantly from the proposed rule amount to \$31,000 because CMS updated the ratio of cost to charges used to estimate cost per case. Also, CMS said it would carefully consider an alternative test that GNYHA had recommended for determining which hospitals would be subject to retrospective reconciliation of their outlier payments.

Post-acute Care Discharges: CMS expanded to 19 the number of diagnosis-related groups in which patients discharged to post-acute care would be reimbursed as transfer cases.

Counting Non-hospital Residents: The final rule codifies certain Medicare principles prohibiting the redistribution of costs borne previously by the community to the Medicare program. The rule applies those principles to the count of full-time equivalent (FTE) residents, particularly in non-hospital settings, and requires a hospital to have continuously incurred the direct costs of residents training in a particular program at a non-hospital site since the date that the residents began training at that site in order to count the residents. The provisions will apply to FTE counts for days and discharges as of Oct. 1, 2003; residents who began training on or before that date will not be subject to disallowance until their programs are completed or until three years have passed, whichever comes first.

Counting Beds and Days: On those provisions of most interest to GNYHA members—unoccupied beds, dual eligible patient days, and Medicare+Choice days—the rule stated that CMS was still reviewing comments, which the agency will address in a separate document this year.

Nursing, Allied Health: CMS clarified the activities that would be considered approved nursing and allied health educational activities eligible for separate Medicare payments. CMS will use a concept of “industry norm” to determine whether the educational activity enables individuals to be employed in a capacity in which they could not have been employed without the educational activity, and therefore, whether the particular activity should be considered for separate Medicare payments.

Clinical Base Year: GNYHA and others who submitted comments had urged CMS to clarify its policies on treatment of the so-called clinical base year to determine a resident's initial residency period. CMS said that since this issue had not been included in its proposed rule, it would not consider those comments when promulgating the final rule. ■

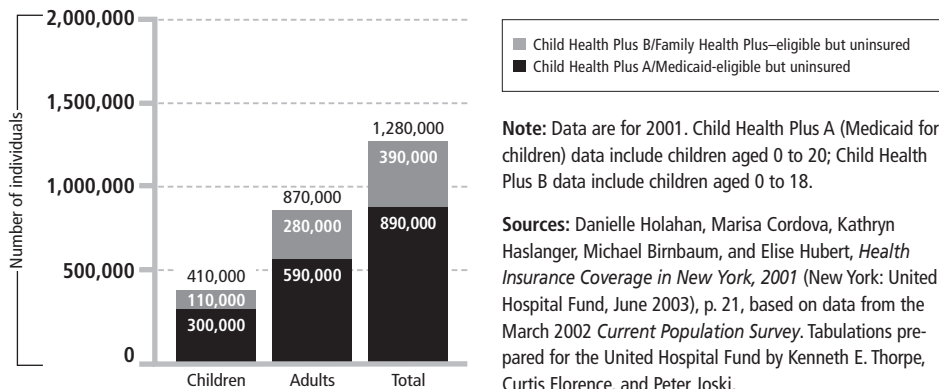
Senators Weigh In *continued from page 1*

community strongly supports, including a prohibition on retroactive application of new regulations and policies, a mandatory 30-day waiting period before a substantive policy change can take effect, a prohibition on sanctions if a provider follows written, erroneous guidance from the government or its fiscal intermediaries, and reform of the provider appeals process. The agreement also has a provision to provide timely data to hospitals so they can accurately compute the disproportionate share hospital patient percentage. Conference committee staff will continue to work throughout the August Congressional recess, with other agreements expected in September. ■

Uninsured Problem Persists in New York

A higher percentage of New Yorkers lack health insurance than in the rest of the country—18% of NYS residents and 26% in NYC, compared with 16% nationally—according to a June 2003 United Hospital Fund report, *Health Insurance Coverage in New York, 2001*. The report points out that, as in past years, many of these uninsured New Yorkers are eligible for free or very low-cost, comprehensive health insurance coverage, but have failed to enroll. Close to 1.3 million of the State's nearly 2.9 million uninsured residents—40% of the uninsured—qualify for Medicaid, Child Health Plus, or Family Health Plus but remain uninsured, in spite of State and local efforts in recent years to educate low-income New Yorkers about these programs and simplify the application processes. ■

Estimates of Uninsured Children and Adults Eligible for Medicaid, Child Health Plus, and Family Health Plus in New York State, 2001



NYS Announces Health Workforce Retraining Initiative Awards

The NYS Departments of Health and Labor have announced the recipients of \$85.5 million in funding for the Health Workforce Retraining Initiative (HWRI). NYC received \$58.4 million in funding; Long Island received \$9.1 million; and the Northern Metropolitan Region received \$4.3 million. The awards support programs that train or retrain health care workers to get positions in occupations with documented shortages of workers, as well as to train and retrain health care workers who need new skills as a result of health care system changes. HWRI is part of the Health Care Reform Act (HCRA) of 2000, which authorized the initia-

tive through June 2003. The \$85.5 million awarded for this round represents the \$40 million authorized in 2001 and \$50 million authorized in 2002. Due to the recent HCRA extension, \$41.5 million will be available in 2003, \$41.15 million in 2004, and \$29.18 million for the six-month period ending June 2005. HWRI is separate from the Temporary Assistance for Needy Families (TANF) Health Worker Training Initiative, which provides funding to recruit and train TANF-eligible individuals for jobs in various health care settings, and the retraining component of the Community Health Care Conversion Demonstration Project, which is designed to help New York hospitals with the transition to mandatory Medicaid managed care. ■

Medicaid Task Force Meets

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four working groups, with one group focusing on each of the following areas: acute care, long-term care, prescription drugs, and administrative/local government issues. The goal of the Task Force is to craft Medicaid legislation before the beginning of the next legislative session in January 2004. GNYHA President Kenneth E. Raske, a member of the Advisory Panel, attended the July 28 meeting, as did GNYHA member representative Michael Dowling, President and CEO, North Shore-LIJ Health System. The next public roundtable will be held on August 12 in Albany. ■

Drug-Eluting Stents

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bursement for the new stent. GNYHA had asked the State Legislature to pass the bill to offset the additional costs that will be imposed on hospitals as they respond to high consumer and physician demand for the new device.

Pending approval by the Centers for Medicare & Medicaid Services (CMS), New York is expected to make an incremental Medicaid payment effective as of mid-August, though actual billing might begin later as a result of the administrative approval process. The special payment will be effective through December 31, 2003, after which normal updates to the payment system will capture some of these higher costs. Nonetheless, the new stent is expected to cause financial losses in hospitals because of its high cost—about triple the cost of current stents—and, with only one manufacturer currently supplying the new stent, has not been subject to normal price discounts. The incremental reimbursement from Medicare and Medicaid thus covers only a portion of the higher cost. Those factors, plus projections that the device will lead to declined cardiac surgery volumes at hospitals over time, prompted Moody's Investors Service to state recently that this medical development will have a negative financial impact on hospitals in the short term, even if it represents a breakthrough medical advance. ■

AROUND

Anthony C. Ferreri has been named Interim President and CEO of Staten Island University Hospital (SIUH). He succeeds **Andrew J. Passeri, Ph.D.**, who retired from SIUH after 12 years, including the past three as President and CEO. Mr. Ferreri had served as SIUH's Executive Vice President since June 2001, and from 1995 to 2001 was a member of the hospital's Board. From 1986 to 2001, he was President and CEO of Metrotemp Services Company, serving the health care community's specialized workforce needs. ■

CMS Defers Action on “75% Rule” in Final Inpatient Rehab Facility PPS Regulation

On August 1, CMS finalized a 3.2% payment increase for inpatient rehabilitation facilities (IRFs) for fiscal year 2004. The new prospective payment system (PPS) rates will be effective for discharges

occurring on or after Oct. 1, 2003. More critically, however, CMS also announced that it will reconsider the “75% rule,” one of the criteria used to determine a facility’s designation as an IRF, and will not enforce the current rule beginning October 1, 2003, as proposed. The agency will instead issue a separate notice

of proposed rule-making with a 60-day comment period that will describe its proposed changes to the current rule. The proposed rule is expected to be issued this week. GNYHA is pleased that CMS is revisiting the issue, and will work with its IRF PPS workgroup to develop comments. ■

CMS Increases Medicare Payments to Nursing Homes

On August 4, the Centers for Medicare & Medicaid Services (CMS) published its final rule updating the Medicare skilled nursing facility prospective payment system (SNF PPS) for Federal fiscal year 2004, which begins on October 1, 2003. GNYHA sent a comment letter to CMS on July 3, and CMS has acted favorably on many of the concerns outlined in that letter.

The rule is estimated to increase Medicare SNF payments by approximately \$850 million nationwide. Specifically, the final rule increased the market basket update from a proposed 2.9% to 3.0%, which will provide more than \$30 million for SNFs in NYS in FY 2004. The rule will also extend the 20% add-on for 15 high-acuity resource utilization groups (RUGs) and the 6.7% add-on for all rehab RUGs, preserving more than \$80 million for New York SNFs during the upcoming fiscal year. Although CMS has rejected the 2003 hospital wage index of 1.4414 in making adjustments to the rates of the NYC SNFs, opting instead for the lower 2004 index of 1.3913, providers will benefit significantly from CMS’s decision to implement a 3.26% cumulative forecast error adjustment for FY 2004 to address recent underestimates of inflation. GNYHA projects that the forecast error adjustment will provide \$40 million in relief for SNFs in NYS, and an average of a \$12.89 per day increase for SNFs in NYC. In addition to the benefits that will accrue to all SNFs as a result of these actions, certain SNFs will also see fiscal relief as a result of CMS’s exclusion of the new radiopharmaceuticals, Zevalin and Bexxar, from consolidated billing beginning on January 1, 2004. ■

SHRPC Approves Member Projects

On August 7, the State Hospital Review and Planning Council (SHRPC) gave contingent approval to these GNYHA member projects: **NYU Hospitals Center**, construction of a replacement facility for its oncology extension clinic to include a PET/CT scanner and three linear accelerators; **Mount Sinai Hospital**, addition of a fifth cardiac catheterization lab and a second electrophysiology lab and requisite renovations; **Mount Sinai Hospital**, conversion of 25 med/surg beds to physical medicine and rehab (PM&R) beds; **Queens Hospital Center**, expansion of its current bed complement; **Jamaica Hospital Nursing Home Co., Inc.**, construction of a residential health care facility (amendment to previous certificate of need application); **Kingsbrook Jewish Medical Center**, initiation of long term home health care program (LTHHCP); **Village Center for**

Care, initiation of LTHHCP in Queens County; **Center for Nursing and Rehabilitation, Inc.**, New York Hospital Medical Center of Queens, Franklin Hospital Medical Center, and Cabrini Center for Nursing and Rehabilitation, expansion of LTHHCP; **MJGC Home Care**, initiation of LTHHCP in Queens County; **Visiting Nurse Service of New York Home Care II**, acquisition of Lenox Hill Hospital’s Certified Home Health Agency; **Visiting Nurse Service of New York Home Care**, acquisition of the New York Hospital Medical Center of Queens’ Certified Home Health Agency and LTHHCP; **Victory Memorial Hospital** and **Long Island College Hospital**, permanent approval for PM&R beds that were previously granted time-limited approvals.

NewYork-Presbyterian Presentation: At the meeting, NewYork-Presbyterian Hospital presented its capital expansion plan. ■

GNYHA Recommends HIPAA Flexibility to Medicaid

GNYHA met recently with representatives of the NYS Department of Health about the Medicaid program’s plans to implement electronic transaction sets under the Health Insurance Portability and Accountability Act (HIPAA), which becomes effective on October 16, 2003. Overhauling payer and provider systems in preparation for HIPAA has consumed payers, including Medicaid, and providers for a significant time with particular focus on avoiding cash flow disruption associated with claims transmission or receipt. At its meeting with DOH, GNYHA recommended, among other things, that Medicaid continue to support current claims formats for six or more months after October 16 while accepting

claims under the new format; that it permit end-to-end testing for providers submitting claims directly to it and that have otherwise passed all alternative testing steps; and that it have in place a mechanism to avoid cash flow disruption in vulnerable providers if all else fails. GNYHA also asked that Medicaid continue to provide current levels of detail to explain payment adjustments, support batch processing of member eligibility inquiries, and continue to work with GNYHA to achieve lower prices for required new eligibility devices at providers’ sites. GNYHA commends the Medicaid program for its active HIPAA-related participation and education activities and its diligent efforts to make the transition to HIPAA as seamless as possible. ■