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Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

House Approves Medicare Legislation; Senators Fight IME Cut

On June 28, 2002, the U.S. House of Representatives approved H.R.4954, the Medicare Modernization and Prescription Drug Act of 2002, by a vote of 221-208. The bill creates a new Medicare prescription drug benefit and provides some relief for health care providers from Medicare reimbursement rate cuts scheduled to take effect later this year. Specifically, the bill reduces the 2003 hospital inpatient market basket update cut from market basket minus 0.55% to market basket minus 0.25%; reduces the indirect medical education (IME) cut to teaching hospitals scheduled for October 1, 2002, from \$1.6 billion over the next two years to approximately \$900 million nationwide; continues the 16.66% skilled nursing facility (SNF) reimbursement rate add-on for nursing, scheduled to expire on October 1, 2002, but at lower levels, for three years; eliminates the 15% cut in home health payments scheduled for October 1, 2002; and provides for a 2% update for physician payments in 2003. The Democratic minority, led by Congressman Charles Rangel (D-NY), ranking member of the House Ways and Means Committee, sought to offer a substitute to H.R.4954 that would have, among other things, eliminated all further IME cuts for teaching hospitals through 2007, and would have extended

the 16.66% nursing component add-on for SNFs, but under the rules of debate on the bill, the Democratic alternative was not brought to the floor for a vote.

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Legislature Amends Union Organizing Statute

On June 26, 2002, the New York State Assembly passed legislation (A.11784-A) that expands upon the current law prohibiting an employer's

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GNYHA Board Meets

The GNYHA Board of Governors met on June 26, 2002, and took the following actions:

- authorized GNYHA to intervene, with the State's acceptance, in lawsuits that threaten the State legislation passed in January that will provide new funding for hospitals, nursing homes, and other providers for health care workforce recruitment and retention;
- heard a report on the latest developments in Washington, D.C., including the provisions of House legislation affecting GNYHA member hospitals and continuing care facilities, and GNYHA's efforts to spare members from further Medicare payment reductions;
- was briefed on developments from the Centers for Medicare & Medicaid Services affecting Medicare GME reimbursement;
- was updated on actions taken at the end of the State legislative session, including workforce legislation, bills related to capital financing, and legislation affecting GME programs;
- discussed GNYHA's opposition to legislation that would prohibit State contractors, including Medicaid providers, from spending State funds to either encourage or discourage union organizing and would require State contractors to sign organizing neutrality agreements;
- was updated on recent developments concerning resident working hours limitations;
- heard the results of two surveys on member hospital accounts receivables and medical necessity denial and appeals experiences;
- was advised about a number of GNYHA products and services designed to help members prepare for and respond to disasters, and heard about GNYHA's comments on smallpox vaccine use presented to the Centers for Disease Control and Prevention's advisory committee;
- heard a summary of initiatives undertaken by GNYHA's HIPAA Payer/Provider Transaction Set Consortium;
- was briefed on the status of the Greater New York Hospital Foundation's Emergency Medical Service Fund, and approved a plan for disbursement of remaining funds;
- was updated on GNYHA's recent Nursing Summit; and
- approved an application for Institutional membership by Incarnation Children's Center, Inc. n



Foreground, left to right: GNYHA Board Treasurer David Campbell, Board member Paul Rosenfeld, consultant Michael Bromberg, GNYHA President Kenneth Raske, Board Chairman Edward Stolzenberg, and Board Vice Chairman Herbert Pardes, M.D., at the GNYHA Board of Governors meeting on June 26, 2002.

Nursing Summit Sets Goal to Increase RN Graduates

On June 24, 2002, GNYHA and the NYS Department of Health (DOH) hosted a Summit on the Nursing Shortage with the explicit goal of increasing the number of graduates of generic professional nursing education programs in NYS by 50% over the next five years. Deans and



GNYHA President Kenneth Raske talks with participants at the Nursing Summit.

Directors representing 40 schools of nursing throughout the State attended the Summit. Representatives from the NYS Education Department, the NYS Nurses Association, and the 1199/SEIU Employment-Training and Job Security Program also participated. The program resulted in a consensus action plan designed to overcome barriers to increasing the number of nursing school graduates.

Action Plan: Recommended actions include joint faculty-clinical appointments; enhancement of faculty salaries; additional financial assistance and tutorial support for students; financial incentives for schools based on graduate performance on the registered nurse (RN) license examination; weekend, evening, and distance learning programs; opportunities for retired nurses; recruitment of qualified students among current health care workers; capital funding to support additional computer services, clinical laboratories, and space; and funded review programs to prepare graduates for the license examination. In addition to providing review courses for all applicants before they sit for the RN licensing examination, GNYHA and DOH will ensure that schools receive feedback regarding their graduates' performance on the examination, so they can identify program changes that will result in improved exam performance.

Nursing Summit Program: Participants heard reports on the New York Center for Health Workforce Studies survey, *Trends in Registered Nursing Graduations in New York, 1996-2001*, and the results of a GNYHA survey regarding barriers to expanding nursing programs. Jean Moore, Executive Deputy Director of the Center, noted that while a 10% increase in graduates is expected over the next two years, this expected increase follows a five-year decline, and the increasing number of graduate nurses will still fall below the projected demand. The barriers to expanding enrollment that were cited most often by the nurse educators were a lack of faculty, related to both qualifications and noncompetitive salaries; lack of qualified applicants; insufficient clinical sites; and budget caps that limited the number of admissions.

Christine Kovner, PhD, RN, FAAN, Professor of Nursing



Dennis Whalen, DOH Executive Deputy Commissioner.



Jean Moore (left), Executive Deputy Director, Center for Health Workforce Studies, University at Albany, SUNY, and Christine Kovner, PhD, RN, FAAN, Professor, New York University.

at New York University, set the tone for the development of the action plan by suggesting several ways to increase the supply of nurse graduates. Dr. Kovner noted, for example, that NYS had an 82% pass rate on the nationally administered RN license examination in the year April 2001-02, compared with a national average of 85%. Improving New York's pass rate could add up to 500 new RNs per year.

GNYHA and DOH will develop a work plan to tackle the issues identified at the Summit. Increasing the number of RN graduates over the next five years is part of GNYHA's commitment to resolving the nursing shortage. n

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Senate Developments: Attention now turns to the Senate, where the Senate Finance Committee is working on its own version of Medicare prescription drug and provider payment legislation. Senate Majority Leader Tom Daschle (D-SD) has asked the Finance Committee to report Medicare legislation to the full Senate by July 15, 2002. In the meantime, on June 19, 2002, a group of 25 Democratic senators, led by Senator Richard Durbin (D-IL) and including, from the New York region, Senators Charles E. Schumer (D-NY), Hillary Rodham Clinton (D-NY), Robert Torricelli (D-NJ), Jon Corzine (D-NJ), Christopher Dodd (D-CT), and Joseph Lieberman (D-CT), sent a letter to Senator Daschle expressing support for elimination of the IME cut this year. "If the IME is reduced from its cur-

rent level of 6.5 to 5.5, teaching hospitals will lose \$794 million in IME payments in FY 2003 and \$4.2 billion over five years," the senators stated. "We are committed to ensuring that these devastating cuts do not occur this year. We would like to see restoration of the IME cuts included in any Medicare provider legislation considered by the Senate this year and have difficulty supporting any Medicare provider legislation that does not repeal the IME cut. Moreover, we strongly urge that the Senate not adjourn this year until this critical issue of importance to our teaching hospitals and the patients they serve is adequately addressed." GNYHA is extremely grateful for this strong expression of support, and looks forward to working with the senators to protect GNYHA members from further Medicare reimbursement rate cuts. n

State to Release New HCRA GME Incentive Pool Survey

The NYS Department of Health (DOH) is expected to release the Year 5 survey of the graduate medical education (GME) incentive pool survey this week. The GME incentive pool program was authorized in the Health Care Reform Act of 2000 at a funding level of \$31 million. The program rewards teaching hospitals and GME consortia for achievement of, and progress toward, State policy goals in the area of GME, including downsizing the number of non-

primary care residents, increasing the proportion of training in ambulatory care sites and underserved areas, and increasing the proportion of underrepresented minorities in training.

The Year 5 survey will incorporate two additional components, on cultural competency training and clinical research. The cultural competency component will reward teaching hospitals and GME consortia that develop a curriculum and training plan for providing eight hours of cultural competency training to 80% or more of their residents during the July 2002 to June 2003 residency program year. According to DOH, the curriculum should be designed to address attitudes, knowledge, and skills; be interactive;

and occur in multiple formats—for example, grand rounds, small group discussions, and so forth. The Year 5 clinical research component is designed to fund new clinical research positions throughout the State. According to DOH, the research position must be a new one that has not been funded previously by the institution or supported by grant funding in the previous three years. Up to 15% of the funds from each of the regional pools, or \$4.5 million statewide, will be dedicated for this program and fund up to 75 research positions statewide. A maximum of 53 positions will be funded in NYC, eight positions will be funded on Long Island, and three positions will be funded in the northern metropolitan region. n

Upcoming GNYHA Briefings

Security During Normal Operations and Disasters

Date: Wednesday, July 17, 2002

Time: 2:00 p.m.–5:00 p.m.

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

At this briefing, a representative from the U.S. Centers for Disease Control and Prevention National Institute for Occupational Safety and Health will discuss protecting buildings from airborne chemical, biological, and radiological attacks; representatives from the Counter Terrorism Division of the NYC Police Department will discuss undertaking a security risk assessment; and representatives from GNYHA member institutions will discuss security procedures they have implemented. For more information contact Doris R. Varlese, and to register contact Barbara Marino, at GNYHA.

Syndromic Surveillance

Date: Thursday, July 18, 2002

Time: 1:00 p.m.–4:00 p.m.

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

This briefing will address syndromic surveillance initiatives at the City, State, and Federal levels. Syndromic surveillance systems seek to rapidly identify patterns of symptoms that indicate the possible outbreak of a syndrome, including reoccurring syndromes like influenza or an outbreak due to bioterrorist activity. The briefing will feature the speakers from the NYC and the NYS Departments of Health and the U.S. Centers for Disease Control and Prevention. For more information contact Susan Stuard, and to register contact Barbara Marino, at GNYHA. n

GNYHA Submits Comments on FY 2003 Inpatient PPS Rule

On July 1, 2002, GNYHA submitted comments to the Centers for Medicare and Medicaid Services (CMS) on the agency's proposed rule for fiscal year (FY) 2003 Medicare inpatient prospective payment system (PPS) rates and other provisions. The letter addressed the provisions described below.

Cost Outlier Threshold: The PPS provides "outlier" payments for cases whose costs exceed their payment. The outlier payment covers 80% of the loss in excess of a "threshold," which functions like a deductible. CMS proposed to increase the threshold by 59% in FY 2003, which would cost hospitals—especially teaching hospitals treating particularly high-cost patients—millions of dollars. GNYHA proposed an alternative methodology for setting the threshold, which is both more robust and would produce a much lower threshold, and urged CMS to re-estimate the threshold based on this methodology.

Discharges to Post-acute Care: Transfer cases are those admitted to a hospital that cannot provide the requisite acute care and are thus transferred to another hospital for treatment. They do not receive the full diagnosis related group (DRG) payment, but rather a lower, per diem version. In 1999, CMS began reimbursing cases in 10 DRGs

that are discharged to post-acute care and have low lengths of stay (LOS), as if they were transfer cases. CMS is now discussing paying all low-LOS discharges to post-acute care in this way. GNYHA opposed expanding this policy because it diminishes the integrity of the PPS. The PPS makes the same payment to a hospital for all cases in a particular DRG, whether each case is low-cost or high-cost, because the aggregate payments should balance the aggregate costs. The post-acute care transfer policy would remove the surplus that hospitals receive for low-cost cases, leaving them with inadequate funding to maintain service levels for high-cost cases.

Market Basket and Labor Share Updates: GNYHA supported CMS's proposal to update the market basket and labor share components of the standardized amounts.

Area Wage Index: GNYHA opposed CMS's proposal to accelerate the phase-out of teaching data from the wage index and urged CMS to honor a prior agreement with the industry for a five-year phase-out.

Affiliation Agreements: GNYHA opposed CMS's proposal to reverse its policy of allowing hospitals that disaffiliate to retain the resident distribution existing at the time of disaffiliation and to re-impose the hospitals' pre-affiliation resident caps. The proposal, especially applied retroactively, would seriously disrupt existing training programs. n

DOH's Emergency Data Collection System Ready for Use

The emergency data collection system developed collaboratively by the NYS Department of Health (DOH) and GNYHA became ready for use by hospitals, in the event of disaster, just prior to the July 4 holiday. This system is designed to streamline the numerous data requests that GNYHA members received after the World Trade Center disaster and provide a centralized source of information to manage health care resources in the event of a future disaster.

GNYHA, through its emergency preparedness coordinating council, identified key data elements to be collected by this system. These data elements fall into the following three categories: 1) surge capacity—beds, staffing, supply needs, and availability; 2) event-related data—numbers of patients seen, waiting to be seen, unidentified, or deceased; and 3) patient locator system—a database contain-

ing the name, sex, and date of service for patients seen in area hospitals as a result of a disaster.

The DOH system is based on a data-gathering system designed by the New York-Presbyterian Health System. It has been pilot-tested by several GNYHA member hospitals and has been presented through a formal demonstration to GNYHA's emergency preparedness coordinating council.

GNYHA sent a member letter bulletin describing the system to its member facilities, and has asked its members to:

- distribute the data elements described above to the departments responsible for collecting this information in the event of a disaster;
- incorporate a process to collect and submit these data into their disaster plan; and
- ensure that the facility has secured both

institutional and individual accounts for DOH's Health Provider Network (HPN), the secure intranet site that will be used to collect the data.

In the event of a disaster, DOH will ask hospitals and long term care facilities to activate their disaster plans. As part of this activation, health care facilities may also be asked to start gathering all or part of the emergency data elements described above.

The emergency data collection system will be operated as part of the HPN. Any hospital employee who wishes to access this Web site must first apply for and receive an individual HPN account. GNYHA urges its members to start applying for HPN accounts now.

If you have questions about the emergency data-gathering system or HPN accounts, contact Susan Waltman or Susan Stuard at GNYHA. n

Legislature Amends Union Organizing Statute *continual from page 1*

use of State funds to train managers, supervisors, or other administrative personnel in methods to discourage union organization. The bill extends the current law ban on the use of State funds to hire or pay attorneys, consultants, or other contractors to encourage or discourage union organization, or to pay the salary or benefits of employees whose principal job duties are to encourage or discourage union organization. Under the bill, an employer must maintain records for at least three years from the date of any encouragement or discouragement of union organizing activities sufficient to show that no State funds were used to pay for such activities. In addition, the attorney general may apply for enjoining or restraining orders to force employers to stop using State funds to encourage or discourage unionization if the Attorney General finds that State funds are being used in this manner. Violations may result in up to a \$1,000 fine or three times the amount of State funds expended to unlawfully encourage or discourage union organization. Unlike earlier versions of the bill, which GNYHA and its members strongly

opposed, the bill passed by the Legislature does not require human service agencies, including all Medicaid providers, to sign so-called neutrality agreements, under which employers would commit themselves

to take no position on union organizing efforts at the workplace, even if State funds were not used to discourage organizing. The State Senate followed the Assembly's lead and passed the bill on July 2, 2002, by a vote of 55 to 1. Governor George Pataki is expected to sign it. n

Torricelli Advocates for Bill to Protect SNF Medicare Payments

On June 6, 2002, U.S. Senator Robert Torricelli (D-NJ) circulated a letter to his Senate colleagues urging support for legislation he introduced in May to ensure that Medicare funding for skilled nursing facilities (SNFs) is not cut. The Torricelli bill, the Medicare Skilled Nursing Beneficiary Protection Act of 2002, addresses two vital payment problems. First, it effectively prevents the expiration of four temporary SNF rate add-ons—the 4% across-the-board add-on and 16.66% nursing cost add-on scheduled to expire in October 2002, and the 20% and 6.7% add-ons for certain rehabilitation and high-acuity patient categories scheduled to expire once the Center for Medicare and Medicaid Services completes certain refine-

ments to the SNF prospective payment system. It does this by establishing 2002 as the new base year for the SNF PPS, thus preserving in the rate the payment adjustments that are set to expire. Second, it establishes the market basket (inflation) adjustment at "full market basket" for 2003, as opposed to market basket minus 0.5%, called for under current law. GNYHA estimates the value of the four add-ons protected by the Torricelli bill at roughly \$58 million annually for GNYHA member nursing facilities. Viewed differently, the Torricelli bill would retain in the daily Medicare rate for GNYHA member facilities \$78.35 that would otherwise be lost with the expiration of the four add-ons. GNYHA is grateful to Senator Torricelli for his advocacy on this issue and will keep members apprised on the progress of the Torricelli bill. n