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Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

Senate Begins Health Care Debate; Schumer Plays Key Role

On July 15, 2002, the United States Senate began debate on health care legislation that Senators hope will serve as the vehicle for enacting a Medicare prescription drug benefit and health care provider payment adjustments. Specifically, the Senate began debate on the Greater Access to Affordable Pharmaceuticals Act (S.812), sponsored by Senators Charles E. Schumer (D-NY) and John

McCain (R-AZ), which is designed to close loopholes in the Federal Food, Drug and Cosmetic Act that allow brand-name drug companies to extend exclusive patents and keep equivalent, lower-cost generic drugs off the market. It is expected that the bill, which was approved by the Senate Health, Education, Labor and Pensions Committee by a bipartisan vote of 15 to 4, will be debated on the Senate floor until the Senate breaks for its August recess on August 2, 2002. It is also expected that amendments will be offered to the bill to create a

Medicare prescription drug benefit and to adjust Medicare payments to hospitals, skilled nursing facilities (SNFs), home health agencies, Medicare+Choice plans, and other providers. With regard to prescription drugs, it is expected that an amendment will be offered by Senators Bob Graham (D-FL) and Zell Miller (D-GA), supported by a majority of Senate Democrats, to create a program under the Medicare fee-for-service program and that a competing amendment will be offered by Senators John Breaux (D-LA), Jim Jeffords (I-VT), and Charles Grassley (R-IA), supported by a majority of Senate Republicans, to create a benefit that would be delivered largely through private insurance companies. With regard to provider adjust-

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Efforts Are Renewed to Advance Legislation Increasing the Federal Medicaid Match to New York and Other States

Legislation that will temporarily increase the Federal Medical Assistance Percentage (FMAP) is expected to be considered this week on the floor of the U.S. Senate as part of the Medicare prescription drug debate. FMAP is the amount of reimbursement each state receives from the Federal government for every state dollar spent in the Medicaid program. In New York State, the Federal government pays 50% of the cost of total

State Medicaid expenditures.

Senators Jay Rockefeller (D-WV), Susan Collins (R-ME), and Ben Nelson (D-NE) are sponsoring an amendment that would provide both a temporary 18-month 1.5% FMAP increase as well as additional Title XX Social Services Block Grant funding for all states. The amendment is intended to help states cope with the continuing financial pressures caused by the recent recession and to give states resources to alleviate damaging cuts to Medicaid and other pro-

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City Launches Department of Health and Mental Hygiene

On July 10, 2002, Commissioner Thomas R. Frieden, M.D., M.P.H., announced the launch of New York City's new Department of Health and Mental Hygiene (DOHMH), an agency formed by

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Decline in Uninsured in 2001 Attributed to Drop in Number of Uninsured Children

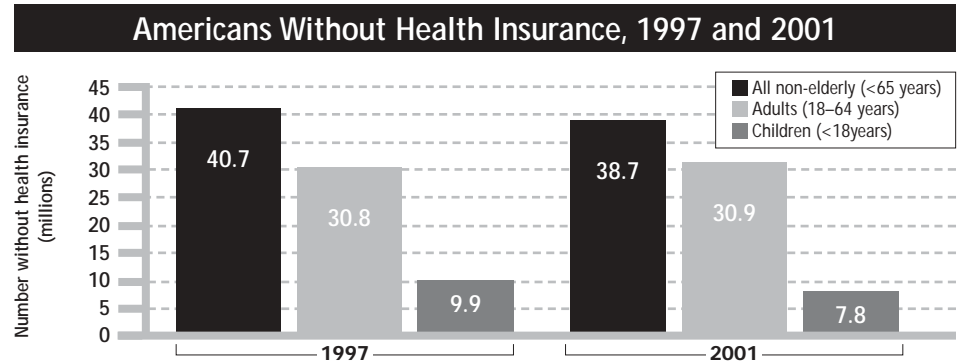
While the number of non-elderly Americans without health insurance fell from 40.7 million (17.4% of all non-elderly Americans) in 1997 to 38.7 million (15.9%) in 2001, according to the Centers for Disease Control and Prevention (CDC), the decline was due primarily to a reduction in the number and percentage of uninsured children. The CDC report, *Early Release of Selected Estimates Based on Data from the 2001 National Health Interview Survey*, released on July 15, 2002, indicated a decline in the number of uninsured children from 9.9 million (13.9% of all American children) in 1997 to 7.8 million (10.8%) in 2001. U.S. Department of Health and Human Services Secretary Tommy Thompson, whose agency oversees the CDC, attributed the drop in the number of uninsured children to the 1997 enactment of the State Children's Health Insurance Program, which provides Federal funding to states for the expansion of publicly subsidized children's health coverage programs.

Non-elderly adults, on the other hand, experienced relatively little change in their health insurance status over the same time period, in spite of the booming economy at the time. In 2001, 30.9 million non-elderly American adults (18.1% of all non-elderly Americans) were uninsured, compared with 30.8 million (18.9%) in 1997. Adults aged 18 to 65 years account for over three-fourths of all non-elderly uninsured Americans. Furthermore, the recent economic downturn

coupled with a return of double-digit inflation in health insurance premiums have sparked concern among many health policy experts that the uninsured rate has already

begun to rise—a trend that is not reflected in the 2001 data upon which this report is based.

Go to www.cdc.gov/nchs/nhis.htm for the full report. ■



Source: Centers for Disease Control and Prevention, *Early Release of Selected Estimates Based on Data from the 2001 National Health Interview Survey* (July 2002).

GNYHA Testifies at New York City Council EMS Hearing

On July 11, 2002, GNYHA testified at a hearing of the New York City Council Fire and Criminal Justice Services Committee in opposition to proposed legislation that would subject hospitals operating ambulances in New York City's Emergency Medical Services 911 system to civil penalties of up to \$1,000 per violation of any rule or protocol issued by the New York City Fire Department (FDNY). GNYHA commented that the

imposition of financial penalties would be detrimental to the operation of New York City's 911 system and that the remedies under the current contract between hospitals that operate ambulances in New York City's 911 system and FDNY are sufficient to ensure that those ambulances deliver high-quality patient care. GNYHA also commented on the importance of the partnership that has been forged between the hospitals and FDNY. FDNY also testified in opposition to the legislation, stating that it creates a strong disincentive for hospitals to operate ambulances in the system, and that FDNY currently has sufficient authority over hospital ambulances that may not comply with an FDNY rule or protocol. ■

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ments, Senator Tim Johnson (D-SD) is expected to offer an amendment that would adjust the inpatient hospital update, postpone Medicare cuts to teaching hospitals, increase Medicare payments to rural hospitals, extend SNF reimbursement rate adjustments that are due to expire on October 1, 2002, postpone cuts to home health agencies, and adjust Medicare payments to physicians. As *Skyline News* went to press, the details of the Johnson amendment were

not available.

GNYHA Positions: GNYHA strongly supports Senator Schumer's legislation as a way to use the private marketplace to reduce the cost of prescription drugs, and applauds the Senator for his leadership on this important issue. In addition, GNYHA is working with Senators Schumer, Hillary Rodham Clinton (D-NY), Robert Torricelli (D-NJ), and Jon Corzine (D-NJ), as well as with the Association of American Medical

Colleges and the American Hospital Association, to ensure that the Senate passes legislation that eliminates the teaching hospital cut scheduled to take effect on October 1, 2002, and that would cost teaching hospitals \$4.2 billion over the next five years. GNYHA also strongly supports legislation sponsored by Senator Torricelli that would extend SNF payment adjustments scheduled to expire on October 1, 2002. ■

National Panel Considers Nursing Home Performance Measures

On July 16, 2002, the National Quality Forum (NQF) deferred action on approving a set of nursing home performance measures following a vote by the organization's membership that failed to achieve consensus on the appropriateness of several of the measures. NQF is under contract by the Centers for Medicare and Medicaid Services (CMS) to identify specific performance measures for use in an upcoming national initiative to publish quality measures for nursing homes nationwide. GNYHA, a member of the NQF, has actively participated in NQF's processes and submitted a voting ballot and comments recommending disapproval of 15 out of 18 specific items proposed by NQF. GNYHA's vote was based on the strong sentiment among its members that the measures were insufficiently validated, did not meet NQF's own criteria for selection, and were not appropriately risk-adjusted. NQF will be engaged in analyzing three validation studies of related performance measures and will defer action until it can reach consensus on the measures. GNYHA understands that NQF's deferment will not delay the implementation of the national rollout of CMS's Quality Measures. For this national rollout in October 2002, GNYHA expects CMS to initially use measures that they will select after reviewing several current research studies on nursing home performance measurement. However, GNYHA expects that the initial measures will be modified to conform to measures that emerge from a national consensus when the NQF completes its processes. GNYHA will continue to play an active role in working to ensure the appropriateness of the measures that will ultimately result from the NQF's deliberations. ■

Fund Provides No-Cost Hotel Rooms for Needy Patients and Their Families

In January 2002, the heads of two New York City companies formed the ITM Hospitality Fund, a New York metropolitan area community service that provides no-cost hotel rooms for needy patients and their families. Seven months after its inception, more than 100 patients and their families have benefited.

Established by Jody Merl, President and Founder of Innovative Travel Marketing (ITM), a barter company specializing in hotel and travel advertising and marketing, and Michael R. Stoler, President of Princeton Commercial Corporation, an investment banking and management consulting firm, the ITM Hospitality Fund chooses beneficiaries based on financial need and also considers geographic distance from the hospital to the patient's and family's home.

The rooms are available to needy patients (and their families) who are undergoing treatment for conditions such

as cancer, cardiovascular disease, neurological disorders, organ transplantation, and other life-threatening conditions that involve extensive hospital stays, doctor visits, or ambulatory therapies provided at a distance from home. The cost to the patient and family (up to four members) is limited to the New York State and City hotel occupancy and sales tax for the room. In some cases, hotels waive the sales tax.

ITM administers the fund based on need and the number of available rooms at ITM client hotels in New York City at any given time. The rooms are generally available for up to four nights. If a patient or family member needs a room for more than four nights, ITM will try to negotiate lower rates with participating hotels.

For more information about the ITM Hospitality Fund call Michael Stoler at (212) 850-0675 or visit the ITM Web site at www.itmhospitalityfund.com. ■

City Launches Department of Health and Mental Hygiene

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the merger of the former New York City Department of Health and Department of Mental Health, Mental Retardation and Alcoholism Services. The new agency's mandate is to protect and promote the health and mental hygiene of all New Yorkers. City residents approved the merger in a charter-revision vote on Election Day 2001. The name change was approved on July 10 by the City Council.

"At its core, the Department represents a new way of addressing health and behavioral health issues that are so often inextricably linked," said Dr. Frieden, Commissioner of the new agency. "No longer will 'health' concerns be separate from those of 'mental hygiene,' a term that encompasses the areas of mental health, developmental disabilities, and chemical dependencies. Moreover, the new agency has already begun building bonds between our former departments to strengthen health and mental health promotion, planning, communi-

cation, and data systems to better accomplish our mission."

The new agency includes a Division of Mental Hygiene, headed by Lloyd I. Sederer, M.D., who comes to the City from the American Psychiatric Association. The Division of Mental Hygiene covers programs formerly overseen by the Department of Mental Health, Mental Retardation and Alcoholism Services. Dr. Sederer will oversee the Mental Hygiene Division, and a Deputy Commissioner will head each of the following areas: Mental Health, Early Intervention and Developmental Disabilities Services, Chemical Dependency and Health Promotion, and Administration.

There are five other divisions in DOHMH: Disease Control, Environmental Health, Epidemiology, Health Care Access and Improvement, and Health Promotion and Disease Prevention. More information about DOHMH can be found at the City's Web site, at www.nyc.gov/health. ■

Legislative Digest

The New York State Legislature has tentatively adjourned for the 2002 session. GNYHA worked on the following health care bills during the course of the year.

Workforce Recruitment and Retention: The Legislature and the Governor approved legislation to provide new funding for health care providers to help them recruit and retain health care professionals and other personnel. The legislation provides \$696 million in new funding over three years for public and not-for-profit hospitals, and \$288 million for public, not-for-profit, and proprietary nursing homes. • **Whistleblower Provisions:** The Legislature and the Governor approved legislation to prohibit retaliatory action against health care workers who disclose to a public entity an "activity, policy, or practice" leading to improper patient care. Before any employees disclose information, they must first report to a supervisor of the improper care unless they believe that the practice or policy poses an imminent threat to public health, safety, or a patient. • **Fiscal 2003 Budget:** As promised, the Governor and Legislature maintained the obligation of no new Medicaid cuts for hospitals or continuing care providers, despite a dire State fiscal situation in this year's budget. The budget included \$75 million in annual additional savings for nursing homes by exempting Medicare revenues from the gross receipts tax approved in the workforce legislation. • **Union Organizing:** The Senate and Assembly passed legislation further limiting the use of State funds to deter union organizing. Current law prohibits the use of State funds to train managers, supervisors, or administrative personnel to deter union organizing. The bill extends the prohibition to hire attorneys, consultants, or other contractors to encourage or discourage union organization, and prohibits paying employees whose principal job duties are to encourage or discourage union organization. The Governor is expected to sign this legislation. • **Patient Consent:** S.4106 was passed by the Senate, which would make it an unlawful discriminatory practice for a hospital to allow residents or other personnel to visually observe patients with disabilities unless the patient or the patient's representative has been informed of the names and positions of all personnel who may visually observe the patient and the patient consents to the observation. The Assembly adjourned prior to passing this legislation. GNYHA opposes the bill on the basis that it creates barriers to medical education and that New York's Patient's Bill of Rights already provides that hospital patients have the right to know those involved in treatment and may

refuse treatment or observation. • **Organ Donor Recognition:** The Senate and Assembly passed S.2820 to establish a program to publicly recognize organ, tissue, and bone marrow donors and their families. • **Shock Therapy:** The Assembly passed A.9081-C, which would expand the requirement for oversight and regulation of electroconvulsive therapy (ECT). This bill would require ECT providers to report information to the New York State Department of Health, including any injuries reported during and after ECT administration. It would create an advisory council to make recommendations on providers who can administer ECT, appropriate equipment, and whether ECT is safe for children and the mentally retarded. The Assembly also passed A.9084, requiring facilities that administer ECT to have ready access to resources for the treatment of medical emergencies. The Senate took no action on this legislation. • **Medicaid Mental Health Neutrality:** The Assembly passed A.737 to lift a budget neutrality restriction on Medicaid mental health services. The Senate took no action. • **Staffing Legislation:** Several staffing bills that would require minimum nurse staffing ratios or prohibit the use of mandatory overtime were introduced this year, but saw little movement through the legislative process. A.2581 passed the Assembly, which would require facilities to provide the public with information regarding nurse staffing levels, including ratios of licensed and unlicensed personnel to the number of patients, adverse patient incidents, and complaints filed with accrediting and regulatory agencies. The Senate took no action on any staffing legislation. • **Prenatal Care Coverage:** The Assembly passed A.8953, enabling lower-income pregnant women to receive prenatal care through the Prenatal Care Assistance Program, regardless of their immigration status. The Senate took no action on this bill. • **Lab Results Notification:** The Assembly passed A.6327, requiring labs to notify patients when the results of medical and lab tests are available. GNYHA opposes this legislation because it interferes with physician-patient relationships, diminishes lab processing capabilities, and actually increases the amount of time patients must wait for lab results. The Senate took no action on this bill. • **Nursing Home Conversions:** The Assembly Health Committee defeated legislation that would permit publicly traded nursing homes to be established in New York. ■

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grams. All three senators have sponsored similar legislation in the past; the amendment that will be considered on the floor is a blend of their various proposals. The National Governors' Association has endorsed this effort. Under the proposed legislation, New York State would be able to draw down approximately \$800 million in additional Federal Medicaid reimbursement.

GNYHA will continue to work with Governor Pataki's office and the offices of Senators Charles E. Schumer (D-NY) and Hillary Rodham Clinton (D-NY) to support this effort, and with Representative Peter King (R-NY), who introduced similar FMAP increase legislation in the House earlier this year. ■

Governor Announces \$7 Million Available for School-based Health Centers

Last week Governor George E. Pataki announced the availability of \$7 million in funding for 50 school-based health center (SBHC) providers that offer preventive and primary health services in schools to children in high-need areas of the State. The State estimates that the funds will enable 87,000 students in high-risk, low-income areas to continue to have access to critical health care services. The awards represent the third year of funding through the Health Care Reform Act and, according to the State, are part of total program funding of nearly \$28 million for 2002. The State also noted that the total number of visits reported by eligible SBHC providers for 2000–2001 was 554,581, an increase of nearly 95,000 above the 459,729 visits reported in 1999–2000. ■