



JUNE 25, 2001

Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

GNYHA Meets with FDA About Potential Blood Supply Shortage in NY-NJ Metropolitan Area

On June 21, 2001, GNYHA met with representatives of the U.S. Food and Drug Administration (FDA) to caution them about the severe impact that a recent proposal by the American Red Cross would have on the blood supply in the NY-NJ

metropolitan area. The Red Cross's proposal to defer blood donations from donors who have spent specified periods of time in Europe and to prohibit the importation of blood from Europe is based on what to date has been considered a purely theoretical risk of transmis-

sion of the human form of "mad cow disease" through blood transfusions.

Specifically, the American Red Cross has proposed to inform blood donors that they are ineligible to donate blood if they have vis-

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Senate Begins Debate on Patients' Bill of Rights

The United States Senate began to debate the patients' bill of rights last week. The components of two major bills are being considered: S.1052, sponsored by Senators John McCain (R-AZ), John Edwards (D-NC), and Edward Kennedy (D-MA), and S.889 by Bill Frist (R-TN), John Breaux (D-LA), and Jim Jeffords (I-VT).

S.1052 expands access for patients insured by private health plans by guaranteeing coverage for emergency care, specialty care, non-formulary drugs, direct access to pediatricians and obstetricians/gynecologists, health plan information, and the prohibition of "gag" clauses in physician contracts. S.1052 requires plans to cover second opinions for all cancers, and prohibits plans from limiting the number of inpatient days covered following certain breast cancer treatments. The bill establishes that prior-authorization determinations must be made within 14 days from the date information is received; providers must submit information requested by insurers within

five days. In cases requiring expedited consideration, plans must respond within 72 hours. Concurrent reviews must be completed within 24 hours of notification. Retrospective reviews must occur within 30 days of receipt of information and no longer than 60 days from receipt of claim. S.1052 also includes internal and external appeals processes, allowing Federal courts to review administrative or non-medical disputes after the internal and external appeals processes have been exhausted. Claimants may sue in Federal court for non-medical decisions, with unlimited economic and non-economic damages, plus up to \$5 million in punitive damages. After the internal and external appeals processes are exhausted for medical decisions, claimants may sue in state courts and recover damages to the extent allowed by state law. The bill protects employers from liability in both Federal and state court unless they participate directly in a denial that causes harm or death.

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New York Delegation Continues to Support IME Update Bill

Members of the New York Congressional Delegation continue to show their support by cosponsoring legislation to relieve hospitals from some of the remaining Medicare cuts contained in the Balanced Budget Act of 1997 (BBA). As *Skyline News* went to press, Congress members Felix Grucci (R-NY), Maurice Hinchey (D-NY), Carolyn McCarthy (D-NY), Michael McNulty (D-NY), Major Owens (D-NY), and Thomas Reynolds (R-NY) had joined the other delegates cosponsoring the American Hospital Preservation Act, which would freeze indirect medical education (IME) payments at 6.5% and provide a full inpatient market basket update for Federal fiscal years 2002 and 2003, raising the total number of New York cosponsors to 25. Passage of H.R.1556 and its Senate companion bill, S.839, is one of

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Patients' Bill of Rights

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The Congressional Budget Office (CBO) estimates that the McCain bill will increase premiums for employer-sponsored health insurance by 4.2%.

S.889 provides similar requirements for patient access to emergency care, specialty care, direct access, gag clauses, health plan information, and time frames for prior authorization and concurrent reviews. The main difference between S.889 and S.1052 is the extent of the patient's right to sue HMOs. Under the Frist-Breaux proposal, patients can sue only in Federal court, with pain and suffering damages capped at \$500,000; punitive damages are prohibited. CBO estimates that the Frist-Breaux bill will increase premiums for employer-sponsored health insurance by 2.9%. President Bush supports the Frist-Breaux bill mainly because it limits the ability to sue HMOs.

GNYHA is very pleased that both bills expand access to specialty care and require health plans to reimburse hospitals for emergency room screening and stabilization care.

However, a provision of concern in the Frist-Breaux bill—which GNYHA will work to keep out of the final legislation—is the requirement that hospital emergency rooms contact plans within one hour of patient sta-

bilization. That provision is not included in the McCain bill, currently the only bill in debate. Senate Majority Leader Tom Daschle (D-SD) has indicated he will keep the Senate in session until an agreement is reached. ■

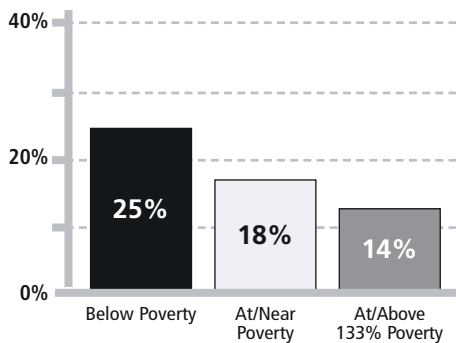
States that Expand Health Coverage for Parents Have Lower Rates of Uninsured Children

States that have extended Medicaid coverage to lower-income, working parents have significantly lower rates of uninsured children than states with very limited coverage of parents, according to *Health Insurance: A Family Affair*, a report released recently by The Commonwealth Fund. The study attributes this trend largely to the fact that uninsured children who are eligible for Medicaid are more

likely to enroll in the program if their parents are also eligible for coverage. Uninsured children in New York could benefit from

this phenomenon when the State's new Family Health Plus program is implemented in October 2001. That program extends coverage to low-income adults, many of whom are parents of uninsured children who are eligible for Medicaid or Child Health Plus. ■

Percent of Low-income, Uninsured Children by States' Upper Income Eligibility Level for Parents



Source: Commonwealth Fund Task Force on the Future of Health Insurance analysis of March 1998–2000 Current Population Surveys.

Legislative Digest

During the final scheduled week in which the 2001 New York State Legislature met, the following health care bills were considered.

SPARCS: The Senate and the Assembly passed A.1644, sponsored by Assemblymen Stephen Kaufman, Richard Gottfried, and others, which establishes in statute the NYS Department of Health Statewide Planning and Research Cooperative System (SPARCS) and adds emergency department data to the data elements reported. SPARCS data enable the health care community to track the progression and spread of diseases throughout NYS. GNYHA supports A.1644. • **Genetics Research:** The Senate passed S.5489, sponsored by Senator Kenneth Lavalle. The bill would advance genetics research while protecting the privacy of individuals who donate stored tissue samples for research purposes. GNYHA worked closely with Senator Lavalle to create legislation that would benefit patients and research institutions by providing clarity and sound public policy for genetics research on stored human tissue samples. • **Medical Necessity:** The Assembly passed A.5048, sponsored by Assemblyman Samuel Colman, to define "medically necessary" regarding the provision of and payment for health care services. The definition would deem medically necessary those covered health care services that could be shown or reasonably determined by an enrollee's health care professional to be consistent with the enrollee's condition, circumstances, and best interests in relation to type, frequency, site, and duration. GNYHA supports A.5048. • **Public Insurance:** The Assembly passed A.7774, sponsored by Assemblymen Nick Perry, Richard Gottfried, and others, which would expand Medicaid eligibility to legal immigrant pregnant women and children. GNYHA is grateful for the Assembly's action on this very important legislation. The Assembly also passed A.7909, sponsored by Assemblyman Gottfried, which would eliminate administrative barriers to individuals eligible for coverage through Child Health Plus (CHP), Medicaid, and Family Health Plus. The bill also reduces financial barriers for children in CHP, and for pregnant women in the Prenatal Care Assistance Program. GNYHA strongly supports A.7909. • **Medical Records:** The Assembly passed A.9010, sponsored by the Rules Committee on behalf of Assemblyman Vito Lopez. GNYHA opposes this bill because it imposes unrealistic time frames by requiring hospitals and physicians to inform patients or other requestors of the charge for medical records copies, and to provide a copy of requested medical records within 10 days of the receipt of payment. ■

Potential Blood Supply Shortage

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ited or lived in the United Kingdom for a cumulative total of three months or more since 1980, or if they traveled to other parts of Europe for a cumulative total of six months or more since 1980. The New York Blood Center estimates that if this proposal is implemented, as much as one-third of the blood supply in NYC would be eliminated.

On June 28, 2001, GNYHA will also testify at a public hearing of the FDA's Transmissible Spongiform Encephalopathies Advisory Committee regarding the serious impact that the Red Cross proposal, if it is adopted by the FDA, will have on GNYHA members.

GNYHA has planned a meeting with the New York Blood Center and GNYHA members to discuss this issue; for details, see "Upcoming Meetings and Briefings," page 4. GNYHA will keep members apprised of developments on this topic. If you have any questions, call Doris R. Varlese at GNYHA. ■

HCFA to Be Restructured

The U.S. Health Care Financing Administration (HCFA) has been restructured and renamed the Centers for Medicare and Medicaid Services (CMS), effective June 14, 2001, according to a recent announcement by U.S. Department of Health and Human Services (HHS) Secretary Tommy Thompson and now-CMS Administrator Tom Scully. Secretary Thompson stated that these reforms are the first of a series of changes he intends to make at the agency.

HHS reported in a press release that CMS will be organized around three centers to reflect the agency's major areas of activity. The *Center for Medicare Management* will focus on the management of the traditional fee-for-service Medicare program, including development of payment policy and management of Medicare contractors. The *Center for Beneficiary Choices* will focus on providing beneficiaries with information on Medicare, Medicare Select, Medicare+Choice, and Medigap options, and will include the management of Medicare+Choice plans, consumer research and demonstrations, and grievance and appeals functions. The *Center*

for Medicaid and State Operations will focus on the management of programs administered by states, including Medicaid, the State Children's Health Insurance Plan, insurance regulation functions under the Health Insurance Portability and Accountability Act of 1996, survey and certification, and the Clinical Laboratory Improvement Act.

Secretary Thompson stated that his goal is to make CMS consumer-oriented and more flexible in working with Medicare contractors. This fall, CMS/HHS will start a \$35 million media campaign to educate and inform Medicare beneficiaries about their choices; make the 1-800-MEDICARE toll-free number available 24 hours a day, seven days a week; and develop a Web-based decision tool to help beneficiaries narrow down health plan options. In addition, the Secretary announced that CMS would develop Medicare contracting reform legislation designed to permit CMS and its contractors more flexibility to adapt to changes in the Medicare program. The legislation will provide for competitive bidding of claims-processing services. ■

DOH Announces Hospital Patient Safety Award and Fall Conference

The New York State Department of Health (DOH) has announced the creation of the New York State Hospital Patient Safety Award Program. The purpose of the program is to publicly acknowledge hospitals that have successfully implemented quality improvement initiatives that promote patient safety and produce actual reductions in medical errors. All hospitals in New York State are encouraged to apply. Applications are due July 20, 2001.

Two hospitals will be selected each year to receive the Hospital Patient Safety Award, as well as a grant of up to \$200,000 to work with DOH in promoting medical error reduction strategies to other hospitals in New York State. Award recipients will be announced at a hospital patient safety conference to be held in New York City on September 13-14, 2001. The conference will be jointly sponsored by DOH and the U.S. Department of Health and Human Services' Agency for Healthcare Research and Quality. Invitations will be mailed to all hospitals in the next several weeks.

For application guidelines or more information, contact Cathy Blake, Director of Healthcare Quality Initiatives, DOH, at (212) 268-7185 or cab16@health.state.ny.us. ■

GNYHA Testifies on Continuing Care Quality and Staffing

On June 18, GNYHA testified at a hearing of the Council of the City of New York's Committee on Aging concerning nursing home quality, staffing, and regulation. Committee Chair Julia Harrison was joined by Council Speaker Peter F. Vallone and other Council members who engaged in an active dialogue with providers, consumers, and labor union organizations.

GNYHA stressed its commitment and that of the not-for-profit continuing care community to provide care that exceeds the quality standards set forth in regulations. GNYHA highlighted the creation of its Continuing Care Quality Forum, its *Perspectives on Quality* educational series, its root cause analysis training, and its pledge to work with the labor community to develop creative solutions to quality concerns. After providing examples of innovative quality initiatives by member facilities and noting documented improvements in nursing home care since 1995, GNYHA outlined the barriers that

providers face daily—such as labor shortages, reimbursement shortfalls, and the adversarial nature of the regulatory environment—in their efforts to deliver consistent high-quality long term care.

GNYHA attached a copy of its recently released report, *Continuing Care Staffing in the New York City Area, 2001*, and recommended increasing the level of available edu-

cation and training resources, improving the coordination of existing job training and development programs, and supporting the development of new continuing care information technology initiatives. GNYHA also recommended that the City Council encourage the State to work with providers to identify and promote the adoption of effective practices throughout New York. ■

GNYHA Testifies on Access to Mammography

On June 20, GNYHA testified at a hearing of the NYC Council Committee on Health about access to and reimbursement for mammography services. GNYHA commented on how poor reimbursement rates, increasing patient demand, and restrictive regulatory requirements threaten the viability of mammography programs. GNYHA commended the Committee for its resolution calling on Congress to pass the Assure Access to Mammography Act of

2001, which seeks to increase Medicare reimbursement for screening mammography to \$90 and to provide additional support for training of radiologists. GNYHA acknowledges U.S. Congressman Peter King for his significant efforts to support enactment of this important legislation, and the support from many of the NY Congressional delegates. GNYHA appreciates Senator Charles Schumer's efforts to support the mammography legislation in the Senate. ■

SHRPC Approves Member Projects

At its June 7, 2001, meeting, the State Hospital Review and Planning Council (SHRPC) gave contingent approval to the following GNYHA member projects: North Shore-Long Island Jewish Health System, North Shore University Hospital, for the certification of its digital catheterization laboratory as a fifth cardiac catheterization laboratory; St. John's Riverside Hospital, for a full asset merger with Yonkers General Hospital and decertification of its medical/surgical and intensive care bed capacity, expansion of its substance abuse and alcohol treatment rehabilitation capacities, and conversion of its emergency room to an urgent care center; Brookdale Hospital Medical Center, for the permanent certification of five inpatient psychiatric beds; North Shore-Long Island Jewish Health System, Franklin Hospital Medical Center, for the certification of four inpatient psychiatric beds; North Shore-Long Island Jewish Health System, Huntington Hospital, for the construction of a surgical services pavilion that would be attached to the existing facility and for the renovation of existing space to accommodate new, expanded, and relocated services; Mount Sinai-NYU Health, NYU Downtown Hospital, for the modernization and expansion of its emergency department; Mercy Medical

Center, Good Samaritan Hospital Medical Center, and St. Francis Hospital, for replacing, upgrading, and standardizing their information technology systems; Beth Abraham Health Services Long Term Home Health Care Program, for a 100-slot long term home health care program in Kings County; St. Vincent's Catholic Medical Centers Home Health Care, Inc., to become the operator of four certified home health agencies and three long term home health care programs currently operated as separate departments of Mary Immaculate Hospital, St. Mary's Hospital of Brooklyn, Sisters of Charity Health Care System Corporation, and St. Vincent's Hospital and Medical Center; and St. Barnabas Hospital, for designation as a regional trauma center for one year. SHRPC also approved the application of St. Mary's Hospital for Children, for the expansion of its long term home health care program for children by 430 slots.

New members appointed to SHRPC are Michael A. Berman, M.D., Executive VP and Hospital Director, New York Presbyterian Hospital; Sister Pauleen Breancier, Theresian House Nursing Home; James J. Daly, retired Senior Partner and Chairman of the Executive Committee, DeForest and Dewey, NY; and Alan Kopman, President and CEO, Westchester Square Medical Center. ■

Congressman Crowley Urges New York Delegation to Eliminate Home Health Cuts

Congressman Joseph Crowley (D-NY) has asked his colleagues in the New York Congressional Delegation to sign a letter that urges the leaders of the House Ways and Means Committee and the Energy and Commerce Committee to correct a home health funding formula that reduces home health Medicare reimbursements by \$69 billion over five years. The letter calls for the elimination of the 15% reduction in Medicare home health reimbursements set forth in the Balanced Budget Act of 1997 (BBA). Con-

gress has passed limited relief since the BBA's enactment, but implementation of the 15% cut is expected to devastate New York Medicare home care services. GNYHA is encouraging Congress to eliminate the home health cut to avert compromising access to these crucial services for the most frail and elderly New Yorkers. GNYHA would like to thank Congressman Crowley for his lead in eliminating further home health reductions, as well as all of the New York Congressional Delegation for their support. ■

IME Update Bill *continued from page 1*

GNYHA's top priorities for the 107th Congress. GNYHA is extremely grateful to all the members of the New York Congressional Del-

egation who have supported H.R.1556, and will continue to work with all the members of the delegation to ensure full cosponsorship. ■

Upcoming Meetings and Briefings

The Potential Blood Supply Shortage

Date: Tuesday, June 26, 2001

Time: 10:00 a.m.-12:00 noon

Location: GNYHA Board Room, 555 West 57th Street, 15th Floor

This meeting for GNYHA members, hosted by GNYHA with the New York Blood Center, will focus on the recent American Red Cross proposal to defer blood donations from donors who have spent specified periods of time in Europe and to prohibit the importation of blood from Europe (see page 1). For more information, contact Doris Varlese, and to register, contact Barbara Marino, both at GNYHA.

Health Care Facilities & Physicians Online

Date: Thursday, July 19, 2001

Time: 9:30 a.m.-12:30 p.m.

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

This program will address the legal and regulatory issues posed by the provision of information and advice online, as well as marketing practices, business transactions, and clinical/quality initiatives that rely on the Internet. The four speakers, leading experts on Federal and state law and regulation as it applies to the activities of health care institutions and physicians online, will review Federal regulation and discuss liability issues posed by the provision of information online; examine State regulation of health care facilities and physicians online; address regulation of health care Internet fraud and abuse; and discuss the FTC's oversight of health information online and enforcement with respect to fraudulent and deceptive practices on the Internet. For more information, contact Tracy Miller, and to register, contact Barbara Marino, both at GNYHA.

Private Payers & the Internet

Dates: Tuesday, July 10 &

Monday, August 6, 2001

Times: 9:00 a.m.-12:00 noon;

1:30 p.m.-4:30 p.m.

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

At this briefing series for GNYHA members, representatives from four of the region's major payers will describe their current programs and future strategies for using the Internet to facilitate communication with plan members and to handle transactions with providers. Feedback will be solicited from the audience about desired functionality from the hospital or nursing home perspective. Each payer will have its own separate session, and GNYHA members are encouraged to attend all sessions. The July 10 session features Oxford Health Plans (morning) and Empire Blue Cross Blue Shield (afternoon). The August 6 session features Aetna US Healthcare (morning) and United Health Care (afternoon). For more information, contact Patricia Wang, and to register, contact Barbara Marino, both at GNYHA. ■