



JANUARY 24, 2000

Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

Proposed Regulation Spares New York Hospitals from Medicare Cuts

A regulation published on January 20, 2000, will spare New York hospitals serving large numbers of low-income patients from up to \$160 million in annual reductions in Medicare disproportionate share hospital (DSH) payments. The rule extends similar protection to hospitals in Massachusetts, Tennessee, Delaware, Vermont, Hawaii, Missouri, and Oregon. The payment reductions would have occurred as a result of an interpretation by the U.S. Health Care Financing Administration (HCFA) that days of care provided to Home Relief patients in New York, and other

types of patients in other states, are not Federal Medicaid days, a requirement for inclusion in the calculation of how much DSH reimbursement is owed to a hospital. This interpretation was explained in a memorandum issued by HCFA in December 1999, which also forgave possible DSH overpayments to any hospital in the country that may have received them, given the lack of clear instructions until that point regarding HCFA's interpretation. The regulation published last week applies to a relatively small group of states and establishes that days of care rendered to patients who became Med-

icaid patients by virtue of certain types of section 1115, or Medicaid demonstration, waivers are recognized as full Medicaid patients for purposes of the DSH formula. The states specified above have 1115 waivers granted by HCFA that mandate the enroll-

continued on page 3

GNYHA Readies Agenda 2000

This week, GNYHA will send to Congress and the State Legislature its Federal and State legislative agendas for 2000. GNYHA's Agenda 2000 is designed to build on the legislative success of 1999, including the passage of the Health Care Reform Act 2000, which created Family Health Plus for uninsured, working New Yorkers, strengthened New York's funding pools for teaching hospitals and for charity care, and promised no new Medicaid cuts for the next three years; and the passage of the Balanced Budget Refinement Act (BBRA), which provided limited but important relief from some of the Medicare funding cuts in the Balanced Budget Act of 1997 (BBA). Despite these successes, much unfinished business remains, including curbing abusive HMO payment practices, building on the BBRA to provide permanent relief from its most punishing payment cuts, and ensuring that the promise of Family Health Plus becomes a reality in 2001. Below is a summary of GNYHA's leg-

continued on page 3

Governor Pataki's 2000-2001 Budget Builds on HCRA 2000

On January 11, 2000, New York Governor George E. Pataki proposed a budget for State fiscal year 2000-2001 that builds on the important provisions of the Health Care Reform Act of 2000 (HCRA 2000), which the Governor signed into law on December 30, 1999. Specifically, the Governor's proposal calls for no new Medicaid payment cuts for hospitals, nursing homes, home health care providers, or clinics, and continues Medicaid cuts enacted in prior years for all providers through March 31, 2003. As called for under HCRA 2000, the Governor's budget assumes a change, as of

April 1, 2000, in the methodology used for updating Medicaid provider payment rates for inflation increases, from the traditional trend factor methodology to one based on the consumer price index for urban consumers. GNYHA is extremely pleased that the Governor, along with Assembly Speaker Sheldon Silver and Senate Majority Leader Joseph L. Bruno, has provided New York's health care providers with predictable Medicaid and teaching hospital pool funding and increased charity care pool funding for the next three years. Other important provisions of the pro-

continued on page 2

GNYHA Sets Continuing Care Agenda for 2000

In 1999, GNYHA worked on a number of initiatives to help its continuing care members deal with the challenges of the year 2000 and beyond. These efforts included ensuring a fair transition to the new Medicare skilled nursing facility (SNF) prospective payment system (PPS) for New York facilities that participated in the RUGS-III demonstration project; ensuring, in the Balanced Budget Refinement Act of 1999 (BBRA), that the U.S. Health Care Financing Administration (HCFA) would be directed to increase SNF PPS rates and refine them to ensure more adequate reimbursement for New York's not-for-profit SNFs; gaining much-needed relief for New York's home health agencies from some of the Medicare cuts contained in the Balanced Budget Act of 1997; and gaining a promise of no new State Medicaid cuts for three years. GNYHA views the 2000 sessions

of the U.S. Congress and New York State Legislature as opportunities to build on these successful legislative outcomes and to ensure their proper implementation. Specifically, GNYHA looks forward to working with HCFA and Congress to 1) ensure that New York facilities are treated equitably as HCFA devises ways to refine the SNF PPS and to ensure that rehabilitation and other vital services are not excessively reduced in the recalibration process; 2) secure changes in the home health PPS proposed rule to alleviate potential cash-flow problems by advocating that 80% of the per-episode payment be made at the beginning of each 60-day episode of care versus 50% under HCFA's proposed rule; and 3) aid in the enactment of tax incentives to assist consumers in financing the costs of continuing care services, and to encourage the purchase of affordable, private, long term care

insurance. At the State level, GNYHA looks forward to working with the Governor and the State Legislature to enable New York's not-for-profit nursing homes to continue to provide high-quality care and to ensure positive outcomes for nursing home residents without resorting to unfunded mandates and one-size-fits-all approaches to solving complex problems. GNYHA further plans to play an active role in ensuring that any Assisted Living legislation considered in the current legislative session addresses the concerns of not-for-profit providers seeking to develop services for low- and moderate-income populations, and GNYHA will be supported in this effort by the members of its Assisted Living Task Force. A more detailed description of GNYHA's Continuing Care Agenda 2000 will be available on GNYHA's Web site, www.gnyha.org. ■

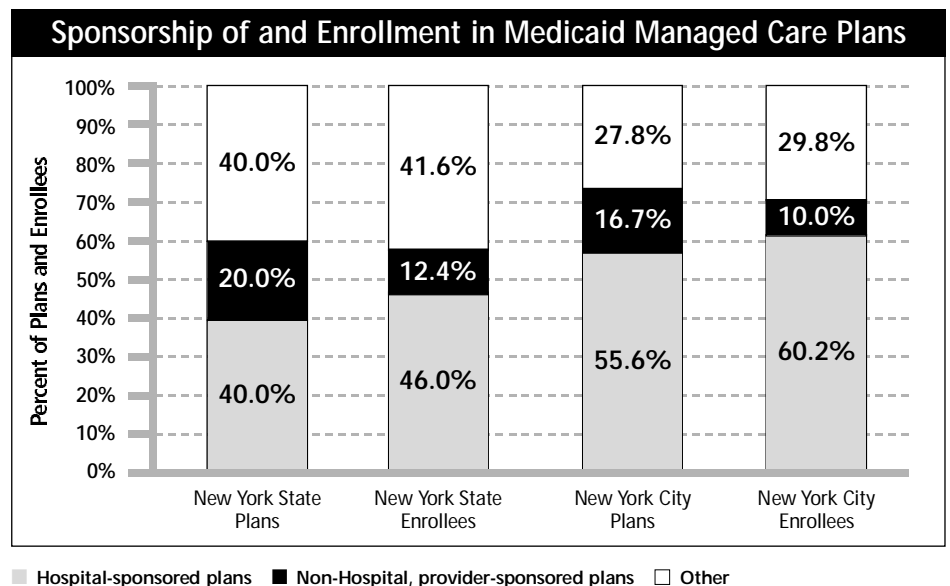
Governor Pataki's Budget

continued from page 1

posal include 1) the permanent extension of the State's Medicaid managed care statute, which is due to expire on July 1, 2000 (GNYHA will be working with the Governor and State Legislature on important improvements to this statute prior to its extension); 2) a one-year extension of the pharmacy "carve-out" from Medicaid managed care premiums; 3) funding for the Governor's mental health initiatives; 4) funding for public health initiatives, including \$5 million in new funds to expand the State's screening program for newborns and \$2.5 million to prevent the potential spread of the West Nile virus and to deal with other similar public health "events"; and 5) creation of a \$10 million Biotechnology and Industry Growth Fund. GNYHA looks forward to working with the Governor and the State Legislature on these and other funding issues, including funding for important biomedical research projects, continued funding for mental health "shared staffing" positions, a repeal of the budget neutrality requirement for the creation of new outpatient mental health programs, and the permanent extension of the Medicaid managed care "carve-out" for school-based health clinics. ■

Medicaid Managed Care Update

As of November 1999, New York State had 30 Medicaid managed care plans with 632,407 Medicaid beneficiaries enrolled. New York City Medicaid managed care beneficiaries made up 60.1% of New York State's enrollment in its 18 Medicaid managed care plans, with 380,002 enrollees. In New York State, 18 provider-sponsored plans enrolled 369,119, or 58.4%, of Medicaid managed care beneficiaries. Of these 18 plans, 12 are sponsored by 54 hospitals. In New York City, 13 provider-sponsored plans maintain a larger market share with 266,840, or 70.2%, of New York City Medicaid managed care enrollees. Of these 13 plans, 51 hospitals sponsor a total of 10 plans. ■



Source for enrollment: New York State Department of Health.

CDC Releases Prenatal Care Initiative RFA

The Federal Centers for Disease Control and Prevention (CDC) recently released a request for applications (RFA) for its new program, the Community Action for Prenatal Care Initiative (CAPC). The purpose of this program is to improve birth outcomes in three target areas (the Bronx, Brooklyn, and Manhattan) by recruiting high-risk pregnant women (including HIV-infected women) into comprehensive health care systems. Eligible applicants include public and voluntary health care facilities and substance abuse treatment and mental health services providers. GNYHA members that intend to submit an application are encouraged to attend the Bidder's Conference on January 31, 2000, from 11:00 a.m. to 1:00 p.m. at the NYS Department of Health offices at 5 Penn Plaza in NYC. The original proposal and attachments must be received by February 23, 2000. To obtain a copy of the RFA, please call Olivia Segree at GNYHA. ■

Proposed Regulation Spares NY Hospitals

continued from page 1

ment of existing Medicaid patients into managed care plans but, with the savings achieved from managed care, also extend Medicaid coverage to groups that would not otherwise be recognized as Medicaid-eligible. In New York, the expansion group is the Home Relief population. The January regulation follows months of intensive communication from New York's Congressional Delegation, particularly Congressman Charles B. Rangel, Senator Charles E. Schumer, and Senator Daniel Patrick Moynihan, to Administration officials, as well as dissemination of legal and financial analyses prepared by GNYHA supporting the treatment of 1115 waiver days as Medicaid days. The regulation will prevent the reduction of approximately \$160 million in payments to New York's 112 DSH hospitals, which would have more than eliminated these hospitals' total 1998 bottom line surplus of \$111 million, representing only a 0.5% margin. ■

Legislative Digest

The New York State Legislature officially began work for the year on January 10, 2000. In the past two weeks, the State Assembly and the State Senate have acted on the following health care-related bills.

Women's Health: On January 18, the State Assembly passed eight bills as part of its "Women's Health Agenda," including A.5457-B, which would require insurers to cover bone density measurement, related prescribed drugs and devices, and prescribed contraceptives, and would prohibit copays and deductibles for cervical cytology screenings; A.817, which would prohibit copays and deductibles for covered mammography screenings; A.5069, which would require insurers to cover annual mammography screenings for women over 40; A.5415, which would extend the requirement to cover mammography screenings to multi-state policies and policies subject to collective bargaining; A.3513, which would require insurers to cover diagnostic testing for ovarian cancer; A.1844, which would require insurers who cover prescription drugs to cover prescribed contraceptive drugs or devices approved by the FDA; A.4706, which would expand Medicaid income eligibility for family planning services from 100% to 200% of the Federal poverty level (FPL) and exempt individuals eligible for Medicaid for family planning services only from having to enroll in Medicaid managed care plans; and A.4707-A, which would raise income eligibility for the Prenatal Care Assistance Program from 185% of the FPL to 250% of the FPL. • **EPIC+:** On January 19, the Senate Aging Committee approved a bill, S.6200, to expand eligibility for the Elderly Pharmaceutical Insurance Coverage (EPIC) program. Currently, only individual seniors with annual income below \$18,500 and couples with annual income below \$24,400 are eligible. Under EPIC+, the income cut-offs would rise to \$35,000 and \$50,000, respectively. The full Senate is expected to approve S.6200 this week. • **Wellness Outreach:** On January 19, the Senate Health Committee approved S.4870-A, which would create within the NYS Department of Health (DOH) a health care and wellness education and outreach program for consumers, patients, and health care providers. • **End-of-Life Care:** On January 19, the Senate Health Committee approved S.6097, which would require coverage for end-of-life care and prohibit balanced billing for end-of-life services. • **Medicaid Transportation:** On January 19, the Senate Social Services Committee approved S.863, which would require Medicaid recipients to use available public transportation when traveling to a health care provider for necessary medical care, unless the no such transportation is available or the recipient cannot take public transportation for health reasons. ■

GNYHA Readies Agenda 2000

continued from page 1

islative priorities.

State Agenda: Last year, GNYHA, along with the Healthcare Association of New York State and the Medical Society of the State of New York, submitted a comprehensive managed care reform package to the State Legislature. Many of the proposals passed the State Assembly as part of its Health Care Reform Act 2000 proposal. Senator Kemp Hannon, Chairman of the Senate Health Committee, introduced the package, including:

- S.5349, which would eliminate undue pressure placed on hospitals by HMOs to discharge patients before they are ready by mandating case payment, prohibiting per diem payments, and protecting consumers and providers from the potentially devastating impact of an HMO insolvency by creating a New York Health Insurance Consumer Pro-

tection Security Fund;

- S.5445, which would greatly enhance the efficiency of the health care system by requiring insurers to comply with New York State's law mandating the acceptance of electronic claims and by closing loopholes in New York's prompt payment statute;
- S.5224, which would clarify that HMOs have not fulfilled their obligation to provide services to their members unless they have appropriately reimbursed providers, and requires health care plans that have consistently violated the laws regarding payment of health claims to pay providers periodic uniform amounts for their services; and
- S.5444, which would clarify and fine-tune the standards for the performance of utilization review by HMOs and other insurers.

continued on page 4

AROUND

Elaine R. Berg has been named Executive Director of the New York Organ Donor Network, the federally designated organ procurement organization for the Greater New York area. Ms. Berg was formerly Vice President for Community Health Systems at New York Presbyterian Hospital. ■

GNYHA Readies Agenda 2000 continued from page 3

GNYHA applauds the Assembly and Senator Hannon for acting upon these important pieces of legislation and looks forward to working with the Governor and the State Legislature to ensure their enactment into law. GNYHA also looks forward to working with the Governor and State Legislature on important improvements to the State's Medicaid managed care statute, which will expire on July 1, 2000; on legislation to ensure access to the State's victim's compensation fund for survivors of sexual abuse who are in need of post-exposure prophylactic medications and treatments; and on proposals to ensure that immigrants have access to Medicaid coverage.

Federal Agenda: While GNYHA is extremely grateful for the enactment of the BBRA, much more relief is needed. Specifically, GNYHA calls upon Congress to prevent any further cuts in Medicare funding for teaching hospitals, as provided by S.1023, sponsored by Senator Daniel Patrick Moynihan (D-NY) and cosponsored by Senator Charles E. Schumer (D-NY); H.R. 1785, sponsored by the Dean of the New York Congressional delegation, Congressman Charles B. Rangel; and H.R. 2266, sponsored by Congresswoman Nita Lowey (D-NY) and Congressman Jack Quinn (R-NY). For a number of New York's teaching hospitals, GNYHA also supports the repeal of the BBRA's freeze on direct medical education payments for hospitals with high direct medical education costs. GNYHA also calls upon Congress to aid hospitals that serve a disproportionate share of low-income Medicare patients by enacting S. 1024, sponsored by Senator Moynihan and cosponsored by Senator Schumer, and its companion, H.R. 1103, sponsored by Congressman

Rangel, which would provide for direct payment of Medicare disproportionate share funds to disproportionate share hospitals on behalf of the Medicare managed care patients they serve. In addition, GNYHA supports efforts to ensure that hospitals receive payments that fully reflect the ever-increasing cost of caring for the Medicare population. This could be achieved by repealing or, at the very least, mitigating reductions in the Medicare "market basket update" for hospitals, as contained in the Lowey/Quinn bill (H.R. 2266) or S. 1609, introduced by Senator Kay Bailey Hutchison (R-TX). In addition, GNYHA looks forward to working with Congress and the Clinton Administration to enact legislation that truly protects patients and providers from abusive HMO practices, and truly holds HMOs accountable for medical decision-making; that reforms the criteria for certification of organ procurement organizations (OPOs), to ensure quality while strengthening local OPOs; and that increases Federal funding for New York's Child Health Plus program. On the regulatory front, GNYHA looks forward to working with the Congressional delegation and the U.S. Health Care Financing Administration to provide access to affordable health insurance for uninsured New Yorkers. ■

Upcoming Briefings for GNYHA Members

State Resident Working Hour Compliance

Date: Wednesday, February 9, 2000

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

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

A new provision of the State's resident working hour limitations in the Health Care Reform Act of 2000 requires hospitals to submit to the NYS Department of Health (DOH), by April 1, 2000, a plan for compliance with the State Hospital Code's requirements for residents' and certain hospital medical staff's working conditions and limits on working hours. The provision also calls for DOH to conduct annual audits of hospitals' compliance with their plans and the Hospital Code and increases penalties for noncompliance. Representatives of DOH will review the new requirements and answer questions. For more information, call Susan C. Waltman, and to register, call Adele Danahy, both at GNYHA.

M&R Healthcare Management Guidelines

Date: Friday, February 11, 2000

Time: 9:00 a.m. - 12:00 noon

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

David Mirkin, M.D. and Kate Fitch, R.N., of Milliman & Robertson (M&R), will discuss major health care financial and utilization trends in 1999, local payer trends in concurrent review, M&R's observations from previous training sessions and implications for utilization management, and possible opportunities in operational efficiencies concerning the utilization management process and implications for payment. For more information, call Pat Wang, and to register, call Adele Danahy, both at GNYHA. ■

In Memoriam

Edward R. Werner, who retired as Chairman and Chief Executive Officer of Empire Blue Cross and Blue Shield, died on January 8, 2000, at the age of 77. Mr. Werner spent his entire career in the Blue Cross-Blue Shield industry. He was elected Vice President in 1961, Executive Vice President in 1972, and President in 1973. He assumed the additional position of Chairman in 1981. GNYHA mourns his passing and extends its deepest condolences to his family, friends, and colleagues. ■

DOH Releases ADHC Recommendations

On January 3, the NYS Department of Health (DOH) sent to the Legislature the final report of the Workgroup on Adult Day Health Care (ADHC). The report outlined the findings from a study of 19 ADHC programs during the summer of 1997. As indicated in Chapter 474 of the Laws of 1996, the Legislature appointed a workgroup to demonstrate the feasibility of establishing a revised system of reimbursement for ADHC programs based on the relative resource needs of registrants. In the report, the workgroup endorsed the establishment of new regulations for ADHC programs, the development of limitations on the program including a minimum number of hours for a daily program session, a maximum number of daily sessions, and a protocol to prohibit exceeding certified capacity, as well as the

need for case management as a baseline service. Utilizing a screening instrument based on the DMS-1 assessment tool to determine registrants' relative resource needs, the study aimed to develop a payment methodology based on the resource consumption of four participant groups. Also, as specified in the legislation, the payment rate for the demonstrations ranged from 50% to 70%, depending on the utilization group of the individual and the nursing facility's operating rate, and included three components: operation, transportation, and capital. According to a letter accompanying this report from the NYS Commissioner of Health, DOH will submit its proposal for regulations to the Legislature including a rate methodology based on operational costs, since DOH did not find a significant cost differential based on acuity levels. ■