



FEBRUARY 21, 2000

Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

President Clinton Proposes New Medicare Cuts

On February 7, 2000, President Clinton proposed a budget for Federal fiscal year 2001 containing significant new Medicare cuts for hospitals, nursing homes, and other Medicare providers. The President also proposed new taxes, or "user" fees, on Medicare providers and Medicare+Choice plans. While GNYHA strongly supports a number of the President's proposed initiatives, including dedicating a portion of the projected Federal surplus to the Medicare program and creating several new programs to help provide affordable health insurance for uninsured Americans, GNYHA strongly opposes the new Medicare provider payment rate reductions and new taxes in President Clinton's plan. GNYHA will be working with the New York Congressional Delegation to defeat these proposals and will be working to provide relief from new Medicare cuts already scheduled to take effect under the Balanced Budget Act of 1997 (BBA). GNYHA's legislative agenda for 2000 includes support for bills introduced by Senators Daniel Patrick Moynihan and Charles Schumer as well as New York Representatives Charles Rangel, Nita Lowey, and Jack Quinn that would stop further scheduled reductions in Medicare payments for the indirect costs incurred by teaching hospitals (S.1023, H.R.1785, H.R.2266) as well as legislation to ensure that Medicare payments keep up with the ever-increasing costs of caring for Medicare beneficiaries (S.2018, H.R.3580).

The President's Budget: The President pro-

poses reducing Federal Medicare spending by 1) reducing the inflation, or "market basket" (MB), updates in FY 2003-2005 by the MB update minus 0.8% for urban hospitals and by MB minus 0.4% for rural hospitals; 2) reducing payment updates for prospective payment system (PPS) exempt hospitals and units and, once subjected to new PPSs, subjecting these hospitals and units to the proposed PPS MB reductions outlined above; 3) increasing the BBA's reduction in payments for Medicare bad debts for hospitals from 45% to 55% and imposing the 45% reduction on other Medicare providers, including skilled nursing facilities; 4) continuing hospital PPS and PPS-exempt capital reductions of

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More Fines Imposed Against Health Plans for Prompt Payment Violations

On January 27, 2000, the New York State Insurance Department imposed a fourth round of fines against health plans for violating New York State's prompt payment statute. The Department has imposed \$345,200 in fines on 27 health plans since the prompt payment statute took effect, with five plans—MDNY Health Plan, Vytra Health Plan, Health Care Plan, Aetna U.S. Healthcare, and Oxford Health Plans—receiving cumulative fines over \$10,000 (see chart on page 2). On the day it imposed the fines, the Department issued a letter to health plans noting that,

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NYS Comptroller Questions Aspects of Empire Conversion

New York State Comptroller H. Carl McCall recently released a report that calls into question a number of aspects of Empire Blue Cross and Blue Shield's proposal to convert from a not-for-profit health services plan to a for-profit, publicly traded insurance company. Although Mr. McCall does not object directly to the conversion, he points out that the transaction, should it proceed, will be the first major conversion in New York State and that other not-for-

profit insurers have indicated they are similarly interested in converting to for-profit companies. Therefore, the State's approach to Empire's conversion will be treated as precedent for future conversions. As a result, Mr. McCall recommends the passage of State legislation authorizing such conversions and prescribing the procedures that should be followed for all conversions, which would include public disclosure and input about the conversion plan and clear guidelines and timeframes. Mr. McCall credits Empire for

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DOH Revises Perinatal Designation Process

As discussed in previous issues of Skyline News, the New York State Department of Health (DOH) is planning to revise its current system of regionalized perinatal services. DOH's plan includes resurveying all providers certified to provide obstetrical services and revising existing regulations regarding the levels of designations of facilities and the roles of various participants in the system. In the next several weeks, DOH plans to distribute a survey that each hospital and birthing center in New York State certified for obstetrical services would be required to complete.

GNYHA is now planning to undertake a two-step perinatal redesignation process, in which a hospital will indicate its request-

ed level on its survey. The first step will consist of a DOH review of the survey results and an initial designation. If a hospital does not agree with DOH's initial designation, the hospital will participate in a second level of review that may include a request for additional information, as well as a site visit. DOH will then make a final determination regarding the hospital's level. When the final designation is assigned, the hospital operating certificate will be updated with the designation level and number of beds, which will replace the Certificate of Need process in this case. In the next few weeks, GNYHA will be meeting with DOH to discuss this proposed process and providing more details to GNYHA members. ■

Empire Conversion

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broadly publicizing its proposal, as well as the State Attorney General's Office for objectively overseeing the Empire conversion. Nevertheless, Mr. McCall takes the position that the Empire conversion should be delayed pending the passage of legislation on all conversion procedures.

Applying the Assets to the Uninsured: Mr. McCall takes the strong position that charitable assets resulting from the conversion should be used to "address those issues that the market will not—that is, the uninsured and underserved." In reaching this conclusion, Mr. McCall points to Empire's history of insurer of last resort and New York's pressing problem of the uninsured. Mr. McCall believes that the movement toward a for-profit health care system should cause concern and that health insurance, unlike other products, "does not meet the criteria of a perfectly competitive market and a number of market failures will likely be encountered." Thus, the distribution of Empire's charitable assets toward the end of expanding health coverage and access takes on critical importance, and in fact, Mr. McCall recommends that this application should be required in any legislation that outlines the conversion process.

Authorizing Legislation: Separate from the need for legislation governing all future conversions, Mr. McCall recognizes the concerns that have been raised by State Attorney General Eliot Spitzer that current New York State law prohibits health plans such as Empire from converting to for-profit status. Mr. McCall states that when there is a question concerning the legal authority to proceed, the most prudent course would be to pursue legislative authority rather than going through a protracted court battle. Both Mr. McCall and Mr. Spitzer agree that legislation already introduced by Assemblyman Pete Grannis on the subject would suffice for this purpose.

Independent Valuation: Finally, Mr. McCall takes the position that an experienced and independent firm should perform a valuation of the charitable assets, including an estimation of the value of the "control premium," referring to the problem created by the existing Blue Cross Blue Shield Association

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HOLD THE DATES!

- GNYHA Annual Meeting: April 12, 2000
- GNYHA Annual Dinner and Awards Ceremony: June 1, 2000

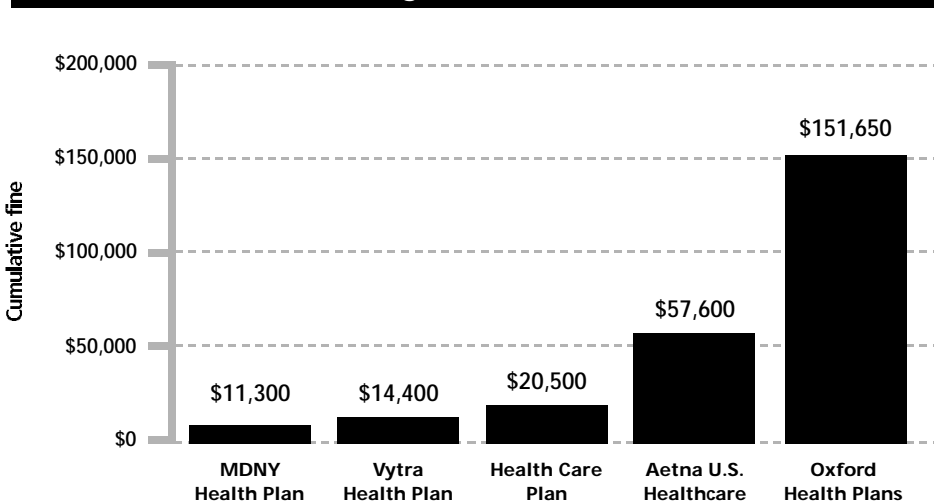
More Fines Imposed Against Health Plans for Prompt Payment Violations

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despite the fines, "a large number of insurers and HMOs have repeatedly failed to comply with the law." In the future, the Department will collect additional information about the

number of claims that health plans have processed and will fine health plans that repeatedly violate the statute \$5,000 per violation, the maximum fine allowed. ■

Health Plans Receiving Cumulative Fines over \$10,000



State Announces 1998 HCRA GME Incentive Pool Recipients; HCFA Solicits Applicants for GME Consortium Demonstration Project

H CRA GME Incentive Pool: On February 4, 2000, Governor George E. Pataki announced the recipients of funds from the 1998 graduate medical education (GME) incentive pool. The GME incentive pool was included as part of the Health Care Reform Act of 1996 (HCRA), and was continued in HCRA 2000 in a modified version and at a lower funding level. Seventy-two hospitals in the State, including 27 hospitals in four GME consortia, will receive \$54 million from the incentive pool. The incentive pool rewards hospitals and GME consortia for meeting State policy goals in the areas of downsizing residency programs, increasing primary care training, maintaining and promoting quality, and increasing the number of underrepresented minorities in GME training.

The 1998 incentive pool represents the second year of distributions from the three-year GME pool collections mandated by HCRA 1996. Thus, there is an additional \$54 million in incentive pool funds that is set aside and will be distributed from the 1999 GME pool collection. GNYHA staff met with New York State Department of Health (DOH) staff recently to make several recommendations regarding the 1999 incentive pool data request and overall process. Principally, GNYHA asked that DOH establish a more streamlined procedure for data collection and review, and an overall timeline so that funds were more likely to be distributed within a reasonable timeframe. DOH will be scheduling a briefing following distribution of the 1999 incentive pool survey, at which they will review data requirements and respond to questions regarding the process.

Medicare GME Consortium Demonstration Project: The U.S. Health Care Financing Administration (HCFA) recently announced that it is soliciting applications for a demonstration project on GME consortia. The demonstration was authorized as part of the Balanced Budget Act of 1997. The purpose of the GME consortium demonstration is to test the organizational response to the incentive of shared direct graduate medical education (DME) payments, with the goal of encouraging collaborative relationships. Under the demonstration, a separate payment (to be deducted from individual hospital DME payments) will be made to the GME consortium. The demonstration does not extend to indirect medical education payments. Also, the demonstration is budget-neutral—that is, HCFA will not pay more under consortium arrangements than it would to the participating entities in the absence of the demonstration. The consortium applicant for the demonstration must consist of a teaching hospital and at least one of the following: another teaching hospital, a medical school, a medical group practice, a managed care organization, an ambulatory care center, or a federally qualified health center. Applications are due to HCFA by April 4, 2000. Successful applicants can begin the demonstration at either of two start-up points, July 2000 or July 2001. The demonstration will last three years, with a renewal option to extend it another three years. ■

HCRA 2000 Programs

Program	Expected Funding Level (in millions)			
	2000	2001	2002	2003 (6 months)
Providers				
Hospital Indigent Care*	847.0	847.0	847.0	424.0
Graduate Medical Education*	494.0	494.0	494.0	247.0
Clinic Indigent Care*	48.0	48.0	48.0	24.0
Rural Health*	17.0	17.0	17.0	8.5
School-based Clinics*	7.0	7.0	7.0	3.5
SLIPA/Distressed Restoration*	24.0	24.0	24.0	6.0**
Insurance Programs				
Family Health Plus				
(Federal, State and County share)*	0.0	240.0	847.0	348.0
Healthy New York—Businesses	0.0	34.0	77.0	52.0
Healthy New York—Individuals	0.0	6.0	29.0	21.0
Direct Pay Stop Loss	35.0	36.0	39.0	20.0
Child Health Plus*	207.0	235.0	324.0	174.0
Insurance Demonstration (Home Care)*	27.0	27.0	27.0	14.0
Elderly Pharmaceutical Insurance Coverage (EPIC)*	107.0	164.0	189.0	108.0
Other Insurance	13.0	10.0	8.0	2.0
State Programs				
Medicaid Fraud Hotline*	0.4	0.4	0.4	0.2
HCRA/405 Compliance*	5.6	5.6	5.6	2.5
General Fund Transfer*	82.0	82.0	82.0	41.0
Supplementary Medical Insurance*	43.0	61.0	65.0	34.0
Public Health Programs	31.0	41.0	41.0	20.5
Roswell Park	90.0	60.0	40.0	20.0
Public Health				
Emergency Medical Services	20.0	21.0	22.0	12.0
HIV Mothers/Children	5.0	5.0	5.0	2.5
Poison Control	5.0	5.0	5.0	2.5
ADAP	12.0	12.0	12.0	6.0
Mental Health Services*	48.0	87.0	87.0	44.0
Grant Programs				
Hospital-based Grants	22.0	22.0	22.0	11.0
Worker Retraining Grants	30.0	40.0	50.0	30.0
Tobacco Prevention Grants	30.0	40.0	40.0	20.0
Cancer Services Grants	10.0	10.0	10.0	5.0
Medical School Grants	4.5	0.0	0.0	0.0
Capital				
Health Facility Restructuring Pool	20.0	20.0	20.0	10.0
Priority Pools				
Commissioner's Priority Pool	15.0	15.0	15.0	7.5
Assembly Priority Pool	8.5	8.5	8.5	4.3
Senate Priority Pool	8.5	8.5	8.5	4.3

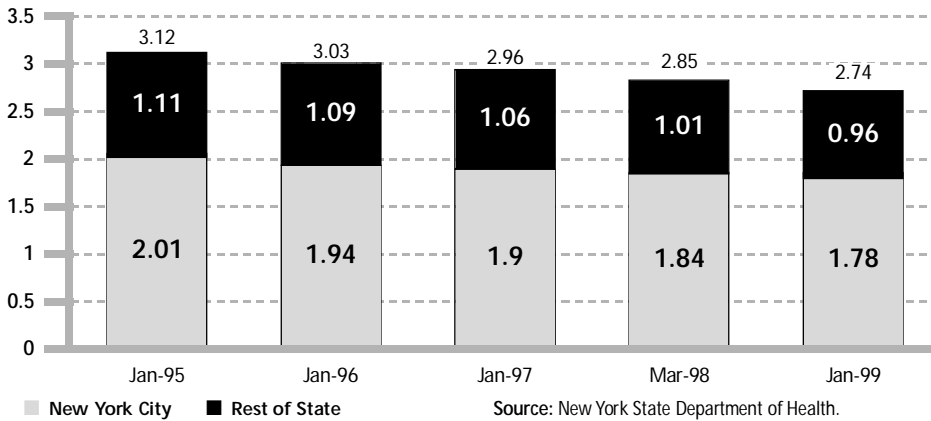
*Full funding specified in law. Other program funding assumes pool collections reach target amounts.
**Through March 31, 2003.

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2.1% and 15%, respectively, through 2005; 5) reducing laboratory and ambulance payment updates by 1% through 2005; and 6) eliminating the Part B Health Professional Shortage Area bonus for non-primary care physicians practicing in urban areas. In the name of Medicare "modernization," the President proposes creating a new, voluntary Medicare coverage benefit for the costs of outpatient prescription drugs; expanding the "centers of excellence" demonstration project to

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Medicaid Individuals in New York State (in millions)



From 1995 to 1999, the number of individuals eligible for Medicaid in NYS has steadily decreased, with the number of Medicaid individuals declining by 11% in NYC and 14% in the rest of the State, due both to fewer individuals gaining eligibility and more individuals losing it. Decreases have been greatest for non-elderly adults and individuals receiving cash assistance.

Legislative Digest

In recent weeks, the New York State Assembly and the New York State Senate have taken action on the following health-related pieces of legislation:

Managed Care: On February 7, the Assembly approved a series of bills introduced by Assemblyman Pete Grannis that would reform HMO practices. Bill A.220 allows an HMO enrollee to continue to receive services from a provider who disaffiliates or in case of terminal illness. A.1400 establishes a duty of reasonable care for HMOs and renders them liable if such care is not provided. A.1500 would provide greater disclosure to managed care consumers and enhanced enforcement of current requirements on health care plans. A.1503 creates the Managed Care Consumer Assistance Program, which would clarify consumers' rights and responsibilities under the law, help consumers make informed choices about managed care plans, and help enrollees to quickly resolve questions and complaints about their care. A.1504A requires the State Insurance Department to review health insurance premium increases of greater than 5%. A.6734 allows consumers with permanently disabling medical conditions to take advantage of expedited external review provisions. • **Guarantee Fund:** A.8368, which establishes a guarantee fund to meet the obligations of insolvent health insurers, was considered by the Assembly Insurance Committee and referred to the Ways and Means Committee on February 8. GNYHA strongly supports A.8368. • **Medicaid Transportation:** The full Senate approved a bill, S.863, to require Medicaid recipients to use available public transportation when traveling to a health care provider for necessary medical care. The bill is being considered by the Assembly Committee on Children and Families. • **Mental Hygiene Agencies Act of 1999:** The Senate Mental Health and Developmental Disabilities Committee approved a bill, S.2114, that would impose an additional set of regulations on hospitals licensed under Article 28 of the Public Health Law if they operate a psychiatric unit or service, have an operating certificate, and receive funds from the Office of Mental Health. Hospitals licensed under Article 28 of the Public Health Law are already subject to regulations that address the operation of a hospital. GNYHA believes that imposing additional regulations on the Board of Directors for the Article 28 hospitals is unnecessary. GNYHA opposes this bill. • **Notification of Communicable Diseases:** S.1969, which is on the Senate calendar this week, would require facilities to notify emergency personnel when a person who is assisted has a communicable disease. GNYHA believes that the Federal regulations ensuring that emergency workers are notified of potential exposure to disease are sufficient, and opposes S.1969. • **Sexual Assault Reform Act:** S.1592, which enacts the Sexual Assault Reform Act (SARA), was considered this week by the full Senate. GNYHA supports the sections of SARA that would permit the reimbursement by the NYS Crime Victims Board for counseling, medical treatment, or other services for sexual assault survivors who are uninsured or underinsured. • **Compensation for Services, DWI:** The Assembly passed A.1501 this week, which ensures that health care providers are compensated for their services even if the insured was injured as the result of operating a motor vehicle while intoxicated. Existing law prohibits health care providers from receiving compensation for their services under No-Fault automobile insurance policy if the person was intoxicated. GNYHA supports A.1501. ■

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include more geographic areas and diagnosis related groups; creating new preferred provider organization alternatives to the Medicare fee-for-service program; creating a "Competitive Defined Benefit" program, under which Medicare beneficiaries are offered financial incentives to choose low-cost Medicare plans; and imposing new "user fees" on providers to cover the costs of surveys and certifications. The President also proposes dedicating \$299 billion of the projected Federal surplus over the next 10 years to the Medicare program to prolong the program's solvency. ■

Empire Conversion

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(BCA) requirement that no one other than a Blue Cross plan can exercise more than 5% control over another Blue Cross plan, thereby limiting how much stock in Empire any one party can own. Both Mr. McCall and Mr. Spitzer, as well as GNYHA, raise concerns about the negative impact of this limitation on the value of Empire's stock and thus the drag it has on the value of the asset that the resulting foundation may own and later sell. Once the control premium is quantified, Mr. McCall suggests that Empire could agree to provide additional funding to the foundation to reflect the foundation's inability to obtain full value for its sale of its stock. Mr. McCall states that, at the very least, the minimum value for the transaction should approximate the book value or net worth of Empire, which is currently close to \$500 million. In Mr. McCall's opinion, the actual market value would likely be even higher.

Control Limitation: On the BCA control limitation, Mr. Spitzer has been negotiating with BCA toward eliminating the 5% control limitation both because of its impact on valuation and because it limits the accountability of Empire's board to its shareholders. It is reported that Mr. Spitzer is making progress on this front, which would remove a major concern that many parties, including GNYHA, have raised about Empire's conversion plan. ■