



MAY 29, 2000

Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

GNYHA Continues Drive for BBA Relief

On May 23, GNYHA met with the chiefs of staff of the NY Congressional Delegation in Washington, and, along with the Healthcare Association of New York State (HANYs), made the case for more relief from the Medicare cuts imposed by the Balanced Budget Act of 1997 (BBA) for hospitals and continuing care providers. At the meeting, which was attended by nearly all the top staff of the members of Congress from across the State, HANYs outlined the need for enacting H.R.3580, sponsored by Congresswoman Nita Lowey (D-NY) and Congressman Jack Quinn (R-NY), which would provide for full inflation or "market basket" updates for hospitals in 2001 and 2002. Under the BBA, hospitals would receive an update of market basket minus 1.1% in those years, denying hospitals a full inflation update for five years running despite the sharply escalating costs of supplies, pharmaceuticals, and other services needed to provide high-quality care for Medicare patients.

GNYHA strongly supports H.R.3580.

GNYHA then urged support for S.2394 and H.R.4239, sponsored by Senators Daniel Patrick Moynihan (D-NY) and Charles E. Schumer (D-NY) and Congressman Charles B. Rangel (D-NY), which would halt further scheduled cuts in Medicare payments to teaching hospitals. Under the BBA, the payment rate adjustment teaching hospitals receive to help compensate them for the extra costs they incur for caring for more complex and complicated cases than are treated in non-teaching hospitals—known as the "indirect medical education adjustment" (IME)—would be reduced by 29% over five years. Last year, Senator Moynihan and Congressman Rangel succeeded in postponing further reductions for one year; however, the IME adjustment is scheduled to be reduced from a 6.5% increase for every 10% increase in the ratio of interns and residents to beds to 6.25% on October 1, 2000, and to 5.5% on October 1, 2001, imposing an additional \$550 million

in Medicare cuts to teaching hospitals in NYS over the next five years. Under the Moynihan/Rangel legislation, the IME adjustment would remain at 6.5% permanently, saving teaching hospitals nationwide from another \$2 billion in Medicare reductions.

Also at the meeting, GNYHA urged the chiefs of staff to express concern to the U.S. Health Care Financing Administration about the potential impact of changes to Federal Medicaid regulations that could result in a loss of hundreds of millions of dollars in Federal Medicaid funds for NYS annually.

continued on page 2

HCFA Announces Outpatient Prospective Payment System Contingency Plan

On May 22, the U.S. Health Care Financing Administration (HCFA) made public its contingency plan for ensuring proper payments to providers and charges to beneficiaries in the event that

it is unable to meet the scheduled implementation date of July 1, 2000, for the new Medicare Outpatient Prospective Payment System (OPPS). Explaining that the OPPS

continued on page 3

GNYHA Board Meets

The GNYHA Board of Governors met on May 18, 2000, and took the following actions:

- approved the audit report of the 1999 financial statements of GNYHA and its subsidiaries and affiliates;
- approved an application for Institutional Membership by Ellenville Community Hospital;
- agreed to continue to support GNYHA's pursuit of legal remedies to challenge certain HMO abuses;
- was briefed on the GNYHA-1199/SEIU Healthcare Education Project's advocacy efforts related to HMO reform;
- was updated on GNYHA's activities regarding working with members to reduce medical errors;
- heard a report on GNYHA's recent advocacy efforts in Washington, D.C., concerning the fight for additional relief from Medicare cuts contained in the Balanced Budget Act; and
- was briefed on a new initiative by the U.S. Health Care Financing Administration to restrict states' ability to use intergovernmental transfers to finance state Medicaid programs.

GNYHA Testifies Before NYC Planning Commission on Disparate Impact of Zoning Requirements

On May 23, 2000, GNYHA testified before the New York City Planning Commission in opposition to aspects of the City's zoning reform proposal as applied to hospitals, related education and research facilities, and continuing care facilities. The proposal, known as the Unified Bulk Program, is the first comprehensive reform of the City's zoning resolution in 40 years and is designed to simplify and clarify the City's zoning requirements. In doing so, however, the proposal would impose new height limits and setback controls and would limit the transfer of development rights. GNYHA's testimony focused on the fact that the proposal would have a disparate and negative impact on health care facilities, which are constantly building and rebuilding in response to the demands of an evolving health care system. In particular, health care facilities often have greater floor-to-floor heights than do residential and other types of buildings and therefore would be significantly affected by the pro-

posed new height limits. This unique design feature of health care facilities is necessary because they must house operating rooms, special equipment, auditoriums, and patient care areas with extensive electrical, plumbing, heating/ventilation/air conditioning, and other special service needs. In addition, health care facilities would be unable to build shorter but squatter buildings because their design calls for appropriate light and exterior space and, therefore, they often must have smaller footprints than do other buildings. Finally, the reform requirements would preclude GNYHA members from being able to afford the costs and burdens of locating and developing additional parcels of land to meet the evolving health care needs of their communities. GNYHA, therefore, asked the City Planning Commission to consider the disparate impact of the proposal on GNYHA members and to permit them to undertake development and expansion to the same extent that they are allowed under existing rules. ■

BBA Relief continued from page 1

GNYHA and HANYS also urged the Delegation to support efforts to mitigate the impact of BBA cuts on continuing care providers. Reaction: Reflecting the advocacy of GNYHA and its members and the concern of the NY members of Congress for the health care community, the NY Congressional Delegation has been more active than any other delegation on the BBA relief front. The proposals that have garnered support from the nationwide hospital community—the Moynihan/Rangel IME bill and the Lowey/Quinn update bill—have been introduced by New Yorkers and enjoy strong support from the Congressional Delegation. At the meeting, GNYHA thanked the chiefs of staff for the support of their respective members of Congress. GNYHA and HANYS suggested that it would be helpful for the Delegation to now meet with the leadership of the House to ensure that BBA relief is enacted this year. ■

DOH Workgroup to Develop Newborn Hearing Screening Regs

State legislation signed into law last year requires the NYS Department of Health (DOH) to establish a program to screen newborns for hearing impairments. Although the legislation indicated an effective date of April 1, 2000, the program is still being developed. Prior to the effective date, DOH must establish a reimbursement mechanism for health care providers performing the hearing tests, as required by the legislation, and must develop clinical guidelines and protocols for detecting hearing impairments. DOH expects full implementation by the fall of 2000.

GNYHA has been participating in an ad hoc DOH workgroup on developing the clinical guidelines and protocols needed to implement the legislation. At the first workgroup meeting on May 12, DOH proposed that the initial hearing screening be done in the hospital prior to the newborn's discharge. If follow-up is needed, additional screening would be done on an outpatient basis. Reporting data to DOH, reimbursement mechanisms, and hospital follow-up responsibilities were identified as subjects for future discussion. ■

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Robert G. Newman, M.D., President and Chief Executive Officer of Continuum Health Partners, Inc.—the parent company of Beth Israel Medical Center, St. Luke's-Roosevelt Hospital Center, Long Island College Hospital, and New York Eye and Ear Infirmary—will be retiring at the end of this year. Upon his retirement, Dr. Newman will be made the first "Trustee for Life" ever appointed to the Board of Beth Israel, in addition to having the title of President Emeritus of Continuum. Dr. Newman joined Beth Israel in September 1975 as Associate General Director and was appointed Chief Executive Officer three years later. He had previously been Assistant Commissioner for Addiction Programs in the New York City Health Department. He is also Professor of Psychiatry and Professor of Epidemiology and Social Medicine at the Albert Einstein College of Medicine. Dr. Newman will be succeeded by **Peter A. Kelly**, who is currently Executive Vice President and Chief Operating Officer of Continuum, and was previously Executive Vice President at Beth Israel Medical Center. Mr. Kelly first came to Beth Israel Medical Center in 1976 and served in a variety of capacities before becoming Chief Operating Officer in 1987. He was also the Interim President and Chief Executive Officer of Long Island College Hospital from 1998 to 1999. • **Kathy Buto**, Deputy Director of the Center for Health Plans and Providers at the U.S. Health Care Financing Administration (HCFA), will be leaving HCFA in July to assume a position at the Congressional Budget Office. Ms. Buto has served in various positions at HCFA during her 17 years there, including Director of the Bureau for Policy Development and Associate Administrator for Policy. **Mark Miller**, who was with the White House's Office of Management and Budget, will succeed Ms. Buto at HCFA. ■

Attorney General Approves Empire Conversion

On May 24, Attorney General Eliot Spitzer announced that he had conditionally approved the conversion of Empire Blue Cross and Blue Shield to publicly traded status. He said that if the conditions are met and necessary legislation is passed in Albany, then he will have no objections to the plan. Attorney General Spitzer noted that it is not the role of his office to judge the merits of the conversion from a business perspective, but instead to uphold State law and protect the public interest.

Upon its conversion, Empire would create a new, charitable foundation that would receive 100% of the stock of the new, for-profit company. This stock would represent the value of the charitable asset created over the

years by virtue of Empire's not-for-profit, publicly supported status. However, the national Blue Cross and Blue Shield Association imposes restrictions that limit the voting rights of any single Blue Cross shareholder to 5% of outstanding stock; therefore, no matter how much is actually owned, the foundation's role in governing the new, for-profit Empire would be limited. The conceptual agreement between Empire and the Attorney General addresses this concern by, among other things, providing that six of 15 new Empire board members would be appointed from a list of individuals to which the foundation and the new Empire mutually agreed, that the foundation would be able to exercise its full voting rights with respect to certain matters and

retain a right to bring legal actions in certain circumstances, and that the foundation and Empire would jointly plan the timing of public stock offerings for the new company.

In response to the news, GNYHA reiterated its long-standing belief that publicly traded health care companies do not benefit the public. The debate now shifts to Albany, where the Legislature is considering three bills that would permit the conversion, including one proposed by Governor Pataki. In a May 25 press statement, Insurance Department Superintendent Neil Levin urged swift legislative action, "so that Empire can continue to protect customers and policyholders by ensuring that it is well positioned in the marketplace and sufficiently capitalized." ■

HCFA Announces Outpatient Prospective Payment System Contingency Plan continued from page 1

requires major new systems and programming changes that were necessarily delayed due to Year 2000 preparations. HCFA stated that OPSS implementation will proceed after all new systems have been tested and significant problems resolved. Hospitals subject to OPSS have become increasingly concerned about delays in the release of crucial software and other major components needed to implement billing and payment. In addition, hospital billing vendors, upon whom providers are relying to program changes needed to prepare bills under the complicated new system, have indicated that they will have great difficulty being ready by July 1. HCFA's contingency plan provides that if hospitals bill Medicare under the new system as of July 1, but Medicare cannot process claims within three weeks, HCFA will make accelerated payments to hospitals upon request on a biweekly basis at approximately 70% of the amount owed (based on Medicare estimates). Bills for beneficiary coinsurance amounts will be expected to be held until the system is operational. The plan also recognizes that hospitals might be unable to submit bills under OPSS, and provides for accelerated payments for up to eight weeks. Over the course of OPSS, beneficiary copayment amounts are expected to decrease as a percentage of total Medicare payments, even

though copayments for certain services in certain areas may be higher than they are today. There has been pressure on HCFA to implement OPSS as scheduled so this gradual copayment reduction can begin. HCFA's contingency plan provides that copayments as of July 1 will be computed under OPSS, regardless of when provider claims are actually processed. HCFA stated that it will make software available on its Internet site to assist in estimating correct copayment amounts for collection at the time of service. HCFA's plan also encourages providers to defer collecting annual Medicare deductible amounts at the time of service until the system is fully implemented.

Request for OPSS Postponement: As HCFA was releasing its contingency plan, several national hospital organizations, including the American Hospital Association and the Association of American Medical Colleges, jointly requested that OPSS implementation be delayed. The organizations' letter enumerated several examples of missed deadlines for release of crucial software, fiscal intermediaries' incorrect instructions to providers and beneficiaries, the inability of major billing vendors to be ready on time, and similar examples to buttress their concern that neither the Medicare program nor providers can reasonably be expected to implement the

system on July 1. GNYHA had written to HCFA at an earlier date to express its concerns with system readiness as well.

GNYHA's OPSS Workgroup Meeting: GNYHA is holding a technical workgroup meeting on OPSS on June 6, 2000, from 9:00 a.m. to 12:00 noon, for member hospitals only, to review these and other issues. Interested members should register with Theresa Simon at GNYHA. ■

Reminder!

GNYHA Annual Reception and Cocktail Buffet:

Date: Thursday June 1, 2000

Time: 6:30 p.m.

- Special recognition of U.S. Senator Daniel Patrick Moynihan, with remarks by U.S. Senator Charles E. Schumer
- Installation of the GNYHA Officers and Board of Governors

If you would like to purchase tickets, please call Adele Danahy at GNYHA. ■

GNYHA Hosts Assisted Living Symposium

On May 11, GNYHA hosted an all-day symposium, *From Vision to Reality: Developing Assisted Living in New York*, that highlighted several assisted living program models for serving low- and moderate-income populations. The symposium guided participants through the steps that have been successfully used by not-for-profit providers to develop a strategic plan, analyze the market, choose a viable site, create a development team, design an appropriate environment, consider legal issues, and finance their projects. The points below highlight some of the program's main themes:

- The growing senior population will increasingly need more affordable, home-like settings that provide health, supportive, and personal care services.
- Not-for-profit health care providers possess

the ideal clinical and management expertise that is essential to providing quality assisted living as part of their continuum of care.

- Providers are facing very difficult challenges in developing affordable assisted living in the NY metropolitan area because of high land and construction prices, zoning barriers, lack of government funding to provide affordable housing, and disconnected policies concerning the provision of services and housing.
- One major element of a successful project includes assembling a development team that shares an organization's philosophies and complements the organization's strengths.

As a result of the low fill rates of many for-profit assisted living projects, funding sources are looking to the not-for-profit sector for their expertise in caring for the aging population. ■

The NY Congressional Delegation Fights for SCHIP Funding

At the request of Governor George Pataki and in cooperation with GNYHA, NY's Congressional Delegation has joined in sending a letter to the U.S. Department of Health and Human Services (HHS) regarding the reallocation of unspent Federal funding for child health insurance. The Balanced Budget Act of 1997 (BBA) allowed states three years to spend their annual allotments for health insurance for children under the State Children's Health Insurance Program (SCHIP) and required that any unspent funds be redistributed from the states that have not spent their entire allotments to states that have spent their entire amounts. The Congressional Budget Office estimates that as much as \$1.9 billion may be available for reallocation at the beginning of Federal fiscal year 2001. Numerous proposals have been introduced by members of Congress to change the BBA requirements for redistributing unspent funds and thereby possibly rendering the funds unavailable to NY and other states that have spent their share during the originally agreed-upon three-year time peri-

od. The letter from the NY Congressional Delegation highlights a number of points for HHS to consider:

- NY is the only state that has begun to draw down its FY 2000 allotment;
- NY is significantly exceeding its 35% match required under Title XXI, expecting to spend \$348 million in State funds and \$409 million in Federal funds. Without additional Federal assistance, NY will spend \$541 million in Federal fiscal year 2001, while the Federal contribution will be only \$366 million;
- States like NY that already had child health insurance programs in place prior to Federal legislation were disadvantaged by the original allocation formula. This approach hurt NY because, in effect, NY's success in insuring children through the Child Health Plus program resulted in less Federal funding than would otherwise have been provided;
- NY's aggressive outreach has achieved rapid program growth. One out of every four children enrolled under SCHIP nationally is enrolled in NY's Child Health Plus program, and currently, NY enrolls more than 10,000 children every month in the program.

GNYHA greatly appreciates the involvement and support of Governor Pataki and the NY Congressional Delegation on this issue so that all SCHIP funds may be used for the purpose of insuring as many children as possible in NYS and nationwide. ■

Prescription Drug Plans Proposed for Medicare

In response to intensified calls to add a drug benefit to the Medicare program, members of both major political parties have recently proposed drug benefit plans. Although prescription drugs now play a larger and more expensive role in health care, Medicare does not cover most outpatient prescription drugs, and, according to the U.S. Health Care Financing Administration, 31% of Medicare beneficiaries lacked supplemental drug coverage in 1996. As a result, according to the Congressional Budget Office, beneficiaries without drug coverage spent 40% less on pharmaceuticals in 1996 than beneficiaries with coverage, but their out-of-pocket spending was almost double (see graph).

Concerns have been raised that support for a prescription drug plan for Medicare beneficiaries could be problematic for providers by presenting lawmakers with a choice to provide either drug benefits or relief from onerous cuts contained in the Balanced Budget Act of 1997 (BBA). But others believe the unexpectedly large savings achieved through the BBA and an increasing Federal budget surplus will allow action on both issues. Responding to a May 15 article in *The New York Times* American Hospital Association President Dick Davidson wrote that this is not an either-or situation: "With a historic budget surplus, we believe there are ample resources for prescription drugs and other services." GNYHA strongly agrees. ■

1996 Prescription Drug Spending Per Medicare Beneficiary, With and Without Supplemental Coverage

