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Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

NYS Assembly to Approve HMO Reform Bill

This week, the NYS Assembly, under the leadership of Speaker Sheldon Silver, Insurance Committee Chairman Alexander "Pete" Grannis, and Health Committee Chairman Richard Gottfried, will approve a landmark HMO reform bill designed to curb many of the abusive payment practices of HMOs and to protect health care consumers and providers from the financially catastrophic consequences of an HMO or health insurer insolvency. The bill, A.11235, contains many of the HMO reform provisions championed by GNYHA and its partners, 1199/SEIU and the Healthcare Association of New York State. Specifically, A.11235:

- Creates an independent dispute resolution system to allow the resolution of payment disputes without resorting to costly litigation. In order to make the system cost-effective for the State and to discourage frivolous appeals,

the system will be financed through fees imposed on the "loser" of the dispute.

- Creates a health insurance guaranty fund, as already exists in NYS for other types of insurance, to protect consumers and providers from punishing financial obligations in the case of an HMO or insurer insolvency.
- Clarifies that prior authorization approval by an HMO or insurer is a binding commitment to make payment for services that were specifically pre-authorized and prohibits requiring an enrollee or provider to request prior authorization for a service more than seven business days in advance.
- Provides for enhanced penalties, including an interim payment system, for HMOs or insurers who violate the State's prompt payment statute and engage in other unfair payment practices, including the failure to abide by a contract with a provider, the failure to

abide by State laws and regulations, requesting an excessive number of medical records before rendering payment decisions relative to other HMOs or insurers, or denying an excessive number of claims compared with industry norms.

- Improves the State's prompt payment statute by requiring payment within 15 days for claims submitted electronically so long as claims are submitted within 30 days of services rendered, and 30 days for other claims. The current statute requires payment within 45 days of submission of a clean claim.
- Prohibits an HMO or insurer from attempting to recover payment from a health care provider beyond a year after the date of payment, except in cases of fraudulent billing.
- Imposes new penalties on payers for failure to comply with the current law requirement to accept claims electronically as of January 1, 2001. (Provider-sponsored Medicaid managed care plans would have until July 1, 2002.)

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Senator Moynihan Honored at GNYHA Annual Reception; Officers and Board Installed

GNYHA is establishing a biomedical research fellowship program in honor of U.S. Senator Daniel Patrick Moynihan. The Daniel Patrick Moynihan Research Fellowship will be awarded to researchers in the early phases of their careers who show exceptional promise in advancing scientific knowledge that will lead to medical breakthroughs. The first fellow will be chosen in 2001. "Senator Moynihan's contributions

to teaching hospitals, biomedical research, and to the entire academic medicine community have been immeasurable," said GNYHA President Kenneth E. Raske. "GNYHA is establishing this fellowship program to reflect the Senator's life-long commitment to learning and teaching, and to help advance medical knowledge." The announcement about the fellowship was made during GNYHA's

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Medicare Outpatient Prospective Payment System Delayed

On June 2, 2000, the U.S. Health Care Financing Administration (HCFA) announced that implementation of the Medicare Outpatient Prospective Payment System (OPPS) would be delayed one

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GNYHA Urges HCFA to Delay Revisions to SNF PPS

On June 9, GNYHA submitted written comments to the U.S. Health Care Financing Administration (HCFA) concerning a proposed rule revising the Medicare skilled nursing facility (SNF) prospective payment system (PPS). GNYHA raised concerns about potential flaws in the data used to develop the proposed revisions and urged HCFA to delay implementation of the rule until the flaws are corrected. GNYHA's comments concern the database HCFA used to design the proposed refine-

ments to the SNF PPS, which contained relatively old data on Medicare Minimum Data Set (MDS) assessments and Medicare claims from 1995 to 1997 (and contained no data from New York). GNYHA's comments also reflected a concern that the system overall appeared to be inaccurately calibrated, such that reimbursement rates for the most resource-intensive cases in several Resource Utilization Group (RUG) categories would be several dollars below the rates applicable to residents in the same category with lower

resource needs. Finally, GNYHA objected to the omission of any guidance to facilities regarding the completion and treatment of MDS assessments during the transition from the current system to the new one, which, absent a delay in the rule, will take place on October 1, 2000. GNYHA is also conducting an analysis to assess which of two methodologies proposed by HCFA for adjusting RUG payments based on the level of non-therapy ancillary services used is most appropriate for GNYHA member facilities. ■

Abstracts Requested for Health Services Research Symposium

Greater New York Hospital Foundation (GNYHF) and the United Hospital Fund have released the Call for Abstracts for this year's Symposium on Health Services Research in New York. The symposium will be held November 9, 2000. The symposium planning com-

mittee is interested in a wide array of topics, including health care financing, health care quality and measurement systems, trends in biomedical research, access to health care, alternative medicine, long-term care, health insurance and managed care, and other topics. Presentations may focus

on original research, synthesis of research, or model programs, although the latter must have a rigorous evaluation component in order to be considered. Abstract submissions must be received by July 26, 2000. For more information, contact Tim Johnson at GNYHA. ■

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- Prohibits denial of payment for emergency services unless such services were not medically necessary to stabilize or treat an emergency condition, and prohibits emergency notification requirements of less than five days after services are provided, unless agreed to by the hospital and the plan.
- Extends the prudent layperson standard of emergency to pre-hospital emergency medical services so consumers are not denied payment by their HMOs or insurers for ambulance and other pre-hospital emergency services.
- Prohibits an HMO or insurer from denying eligibility for an individual policy for non-payment of premiums unless the individual has had coverage terminated for non-payment more than twice in the last year or is eligible for a group policy.
- Limits premium rate increases of more than 5% during any consecutive 12-month period.

Provisions to respond to the payer community's concerns include 1) a requirement that hospitals submit claims within 120 days (and other providers and consumers within six months) after the provider learns that the insurer or HMO had an obligation to pay for

services rendered; 2) a requirement that hospitals submit quarterly reports on billing procedures for third-party payers and payments, including a listing of the number of days from the date that a claim was submitted until payment was received, the number of days from the date that payment was received until the date that such payment was posted, and such other information as the commissioner deems appropriate; and 3) a provision that protects HMOs and insurers from penalties under the prompt pay statute so long as (a) 98% of claims are paid in compliance with the amended prompt payment statute; (b) the remainder of claims are paid, with interest, within 60 days of receipt of a claim; and (c) the dollar amounts associated with the remainder do not exceed 5% of the accounts receivable owed by an individual HMO or

insurer to an individual health care provider. GNYHA only supports the 98% provision if coupled with the other reforms contained in A.11235. GNYHA applauds Speaker Silver, Assemblyman Grannis, and Assemblyman Gottfried for their leadership in crafting common-sense, balanced HMO reform legislation that is desperately needed by the people of the State of New York.

Prospects: As Skyline News went to press, Assembly and Senate staff were meeting to see which provisions of the Assembly bill the Senate could agree upon. The Legislature is scheduled to adjourn on June 14; however, if the Assembly, Senate, and Governor can reach an agreement on HMO reform legislation, it is possible that the Senate and Assembly will return in the coming weeks to pass legislation embodying the agreement. ■

Women's Health Request Released

The U.S. Department of Health and Human Services has released a Request for Proposals for National Centers of Excellence in Women's Health. Grants will be provided to support promising approaches in women's health across five components: comprehensive health service

delivery, training for lay and professional health providers, public education and outreach, community-based research, and leadership development for women as health care consumers and providers. Proposals are due on June 30, 2000. For more information, contact Doris R. Varlese at GNYHA. ■

HCFA Issues Guidelines on Patients' Rights

The U.S. Health Care Financing Administration (HCFA) recently issued interim interpretive guidelines for Medicare's Condition of Participation (COP) for Hospitals on Patients' Rights (42 CFR Section 482.13). The guidelines relate to HCFA regulations on patients' rights that were published in the July 2, 1999, Federal Register, and became effective August 2, 1999.

GNYHA Summary: GNYHA has prepared a summary of the guidelines, which include requirements for the use of restraints and seclusion, with a focus on the provisions that have been of concern to GNYHA member hospitals. The full, 31-page interim interpretive guidelines can be accessed at HCFA's Web page, www.hcfa.gov/quality/4b.htm.

Use of Restraint and Seclusion: The interim interpretive guidelines provide favorable resolution of several issues related to the use of restraints and seclusion that were addressed both in GNYHA's written comments to HCFA and in subsequent discussions with HCFA

staff. HCFA requires that the need for chemical and physical restraints be based on an individual assessment of the patient and that documentation in the patient's medical record support the intervention used and indicate the consideration or use of less restrictive measures. Regarding chemical restraints, the guidelines clarify that medications that are part of the patient's regular drug regimen (including PRN, or "as needed," medications) are not considered chemical restraints, even if their purpose is to control ongoing behavior. The interpretive guidelines also expand the definition of Licensed Independent Practitioner (LIP) in a way that will permit physicians, including unlicensed residents, nurse practitioners, and physician assistants, to fulfill the LIP functions in New York State, provided they are afforded these privileges by the hospital. It should be noted, however, that psychiatric units licensed by the New York State Office of Mental Health are required to have all orders for restraint or seclusion, as

well as patient assessments, completed by a physician. Finally, GNYHA confirmed that, while the intent behind the regulation is to notify the attending or admitting physician as soon as possible when the use of restraints or seclusion is initiated, HCFA recognizes that immediate notification may not always be possible—for instance, on weekends, evenings or nights, or during vacations. Under those circumstances, the physician who is covering for the attending or admitting physician is considered to be the "treating physician" for the purpose of the regulation.

Upcoming Briefing: GNYHA will hold an executive briefing in the near future regarding the interim interpretive guidelines, and will notify members when these plans are finalized. In the meantime, please call Patricia O'Brien at GNYHA if you have questions regarding the Medicare COP on Patients' Rights. If you would like to receive a copy of GNYHA's summary of the interpretive guidelines, call Anita Wall at GNYHA. ■

Senator Moynihan Honored at GNYHA Reception; Officers and Board Installed continued from page 1

Annual Reception on Thursday, June 1, 2000. U.S. Senator Charles Schumer attended the event and spoke about Senator Moynihan's contributions to the medical community.

During his 24 years in the U.S. Senate, Senator Moynihan has been one of the nation's foremost supporters of health care providers and the people they serve. In recent months, Senator Moynihan has sponsored the Medical Education Trust Fund Act of 1999, which would require Medicare, Medicaid, and the private sector to contribute financial support for graduate medical education; has worked vigorously to secure relief for hospitals from the deep Medicare cuts enacted in the Balanced Budget Act of 1997; and has fought to protect teaching hospitals from the negative impacts of managed care.

Board Installation: The following officers were installed at the reception: **Gladys George, Esq.**, Lenox Hill Hospital, Chair; **Gary S. Horan**, Our Lady of Mercy Health-care System, Chairman-elect; **Theresa A.**

Bischoff, NYU Hospitals Center, Vice Chair; **Arthur Y. Webb**, Village Care of New York, Vice Chairman; **Edward Stolzenberg**, Westchester Medical Center, Secretary; **Stanley Brezenoff**, Maimonides Medical Center, Treasurer; **Herbert Pardes, M.D.**, New York Presbyterian Hospital, Assistant Treasurer; **Mark J. Mundy**, New York Methodist Hospital, Immediate Past Chairman; **Barry R. Freedman**, The Mount Sinai Hospital, Past Chairman; **David P. Rosen**, Jamaica Hospital Medical Center, Past Chairman; **Spencer Foreman, M.D.**, Past Chairman; and **Robert G. Newman, M.D.**, President and CEO of Continuum Health Partners, Inc., Past Chairman. The following individuals were installed on the GNYHA Board of Governors in the Class of 2003: **Michael Dowling**, North Shore-Long Island Jewish Health Care System; **David J. Campbell**, Saint Vincents Catholic Medical Centers of New York; **Alan Morse, Ph.D.**, The Jewish Guild for the Blind; **Harold P. Freeman, M.D.**, North General Hospital; **John LaRosa, M.D.**, State Uni-

versity Health Science Center of Brooklyn; and **Daniel P. Walsh**, Winthrop University Health System. **James Foy**, St. John's Riverside Health Care System, was installed on the Board in the Class of 2001. ■

Upcoming Briefing

Addressing the Nursing Shortage

Date: Thursday, June 15, 2000

Time: 10:00 a.m.–12:00 noon.

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

This meeting of vice presidents and directors of nursing from member hospitals, and deans of nursing programs from local colleges, is intended to establish strategies that will increase enrollment in nursing education programs and will provide graduate nurses with the skills they need to perform effectively in the hospital setting. The meeting is part of GNYHA's initiative to assist hospitals in responding to the shortage of experienced nurses that was identified in the GNYHA Survey of Nurse Staffing in the New York City Region (November 1999). Vice presidents of nursing who wish to attend and are not yet registered should call Patricia O'Brien at GNYHA. ■

Medicare OPPS Delayed

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month, from July 1, 2000, to August 1, 2000. Development of the OPPS was mandated in the 1997 Balanced Budget Act and modified in the Balanced Budget Refinement Act. The OPPS will pay hospitals for ambulatory services based on ambulatory payment classification (APC) groups that define a visit or service on the basis of detailed coding performed by the hospital. It will also change beneficiary copayment amounts and the way they are calculated. Major computer and other complicated systems changes are required to implement OPPS, and HCFA has experienced severe delays in this area. The hospital community across the country had expressed growing concerns about the impossibility of implementing the system on July 1, and HCFA

had even developed a contingency plan in which it anticipated the wholesale inability of the Medicare program to pay, and hospitals to bill, under OPPS. In its announcement of the delay, HCFA acknowledged that certain key implementation steps were several weeks behind schedule and that this lag limited hospitals' ability to prepare. The hospital community will continue to monitor the readiness of the system as of August 1. Among other issues of concern are proper notification of the changing system to beneficiaries and how and why copayment amounts will change.

GNYHA Activities: GNYHA has developed a reimbursement model for member hospitals' use that presents five claims computations to illustrate how services will be paid under OPPS. The Excel spreadsheet can be downloaded from the Data and Information sec-

tion of the Members' Area of the GNYHA Web site, at www.gnyha.org, and used to determine hospital payment amounts for specific procedures and under different scenarios. GNYHA has also prepared hospital-specific patient origin zip code analyses that are useful in determining whether hospital ambulatory care sites will meet other complicated new requirements under OPPS to maintain their status as hospital-based entities. GNYHA has also submitted comments on the final OPPS rule to HCFA on specific items of concern, including the requirements for provider-based status, and has created an OPPS technical workgroup to help members prepare for the operational requirements of the complex new system. ■

SHRPC Approves Member Projects

At its June 1, 2000, meeting, the State Hospital Review and Planning Council (SHRPC) gave contingent approval to the following GNYHA member projects: **New York Presbyterian Hospital Columbia-Presbyterian Campus**, for the construction of a fourth adult cardiac catheterization laboratory; **New York Presbyterian Hospital New York-Cornell Campus**, for the addition of a shared pediatric cardiac catheterization and electrophysiology laboratory; **Westchester-Ellenville Hospital, Inc.**, for the establishment of Westchester-Ellenville Hospital as the operator of Ellenville Community Hospital; and **Southside Hospital**, for the expansion of its inpatient psychiatric capacity. **Adoption of Regulations:** SHRPC also approved a 90-day extension of the emergency adult day health care (ADHC) regulations first adopted by SHRPC on February 3, 2000, and subsequently extended on April 6, 2000. The most recent version contained a small number of technical and clarifying changes, including a clarification indicating that an ADHC program's quality improvement process must include, in instances where problems are found, the development and implementation of revised policies and procedures to address those problems, and a subsequent assessment of the revisions implemented to determine whether they were successful in preventing recurrence of any past problems. ■

Legislative Digest

In recent weeks, the New York State Senate and Assembly have considered the following health care-related legislation.

Quality: A.11132, which would establish a center for quality improvement and patient safety within the New York State Department of Health, was introduced on May 24 by Assemblyman Richard N. Gottfried. A.11132, which was approved by the Assembly Health Committee this past week and referred to Ways and Means, would authorize the center for quality improvement to analyze and publicly disseminate data from the Statewide Planning and Research Cooperative System (SPARCS) and the State Hospital Incident Reporting System, also known as New York Patient Occurrence Reporting and Tracking System (NYPORTS). A.11132 contains provisions regarding hospital profiling that are similar to those in Senator Kemp Hannon's legislation, S.5077-B, which passed the Senate Health Committee on May 31. GNYHA recognizes the importance of the availability of meaningful information regarding health care providers and has submitted suggested amendments in response to both Assemblyman Gottfried's and Senator Hannon's legislation that would ensure the validity of data made available to the public. • **Licensing of Mental Health Practitioners:** S.2990-E, legislation sponsored by Senator Kenneth P. LaValle that would provide for licensing a variety of newly defined mental health practitioners, create a board of mental health practitioners, and define social work practice, was considered by the full Senate this week. GNYHA opposes this legislation, in part because the proposed changes would seriously limit how hospitals provide social work services and would result in unnecessary increased costs of delivering those services. Assemblyman Edward C. Sullivan has sponsored a version of this bill in the Assembly as well, A.5410-D, to which GNYHA has responded with the same concerns. A.5410-D was referred to the Assembly Committee on Higher Education on January 5. • **Medical Necessity:** A.7440-C and S.5161-C, sponsored by Assemblyman Samuel Colman and Senator Ronald B. Stafford, would define "medical necessity" and "medically necessary care" in relation to benefits included in a patient's health insurance plan. Despite the establishment of an external appeal process for denials based on medical necessity, New York State law still allows insurers to self-define these terms, and requires only the disclosure of the definition used. Subsequently, insurers and managed care plans are free to create definitions of medical necessity that may have little to do with the present patient's condition and need for medical intervention. This legislation neither mandates particular care nor shifts the entire burden of proof to insurers to justify their denial; health care professionals must also show that their health care services are consistent with the enrollee's condition, circumstances, and best interests, and with professional health care practice. A.7440-C was approved by the Assembly Health Committee this past week and referred to Ways and Means. No action has been taken on S.5161-C. • **Health Insurance Rate Increases:** Sponsored by Assemblymen William B. Magnarelli and Richard N. Gottfried, A.10341 would prohibit health insurance rate increases from being imposed unless 30 days advance written notice has been provided to each policyholder. Such rate increase would only apply to periods after the 30-day notice has been provided. A.10341 passed the Assembly and was delivered to the Senate, where it was referred to the Rules Committee on June 5. ■