



JULY 10, 2000

# Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

## Support Grows for Teaching Hospital Preservation Act

**C**ongressman Charles B. Rangel (D-NY) and Senator Daniel Patrick Moynihan (D-NY) have introduced legislation to protect the nation's teaching hospitals from further cuts scheduled to take place under the Balanced Budget Act of 1997 (BBA). Specifically, the Rangel/Moynihan legislation, entitled the Teaching Hospital Preservation Act of 2000 (H.R.4239/S.2394), would protect teaching hospitals from another \$2.1 billion in Medicare cuts over the next five years by maintaining the indirect medical education (IME) adjustment to Medicare inpatient payment rates at 6.5%

for every 10% increase in the ratio of interns and residents to beds. Under current law, the IME adjustment is scheduled to be reduced to 6.25% on October 1, 2000, and to 5.5% on October 1, 2001, thus subjecting teaching hospitals in New York State to over \$550 million in additional Medicare cuts over the next five years. While President Clinton proposed a first step in his BBA relief package by proposing to eliminate the first of the two IME cuts, he has not yet come out in support of the full Moynihan/Rangel bill. Enactment of this legislation is one of

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## House Passes Resolution to Allocate Budget Surplus to Medicare

**O**n June 29, the House of Representatives passed a resolution introduced by Congressman Brian Bilbray (R-CA), by a measure of 404 to 8, that put the House on record in support of an increase in Medicare reimbursement funding for hospitals as soon as a mid-year estimate of the nation's budget surplus is completed by the Congressional Budget Office. That estimate is expected to show that the surplus will be at least \$1 trillion higher over the next

10 years than had originally been predicted. The President announced recently that his Office of Management and Budget has estimated a \$1 trillion increase in the Federal surplus. GNYHA is working to gain support for legislation designed to increase Medicare payments to hospitals, nursing homes, and other health care providers suffering from higher-than-expected reductions in Medicare reimbursements under the 1997 Balanced Budget Act (see story on page 2). ■

## House and Senate Pass Differing HMO Bills

**B**efore recessing for the Independence Day holiday, the U.S. House and Senate took action on differing bills designed to address perceived HMO abuses. **Collective Bargaining:** On June 30, 2000, the House of Representatives passed a bill to allow health care professionals engaged in contractual negotiations with HMOs and other health insurers to bargain collectively without running afoul of Federal antitrust statutes. The bill, H.R.1304, passed by a vote of 276 to 136, with 20 of the 31 New York members of the House voting for the bill. Under the bill, "health care professional" is defined as "an individual who provides health care items or services, treatment, assistance with activities of daily living, or medications to patients and who, to the extent required by State or Federal law, possesses specialized training that confers expertise in the provision of such items or services, treatment, assistance, or medications." No action is scheduled in the Senate on H.R.1304.

**Patients' Bill of Rights:** On June 29, 2000, the Senate passed along party lines a Republican version of a Patients' Bill of Rights. Republican leaders claimed that the bill contained a number of provisions that had been worked out in a bipartisan conference committee charged with rec-

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## Upcoming GNYHA Briefings

### OPPS Training Seminars

Dates: Wednesday, July 12 &

Thursday, July 13, 2000

Times: Two sessions per day, 9 a.m.–12:00 noon and 1:00 p.m.–4:00 p.m.

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

GNYHA is holding four training seminars for patient accounts and outpatient registration staff on the Outpatient Prospective Payment System (OPPS), which is scheduled to begin on August 1, 2000. The four sessions will review billing under OPPS, assignment of modifiers, calculation of Medicare program payments, and calculation of beneficiary copayment and deductible amounts. Each of the sessions will be conducted by Empire Medicare Services and others. They are open to GNYHA members only. To register, call Barbara Marino at GNYHA.

### Medicare Provider-Based Regulations

Date: Friday, July 14, 2000

Time: 9 a.m.–12:00 noon

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

Regulations promulgated as part of the Medicare Outpatient Prospective Payment System (OPPS) establish extensive new requirements for ambulatory care and other sites associated with a main provider (such as a hospital) to acquire and maintain provider-based status. Among other things, provider-based status allows a site to bill as part of the hospital, which, even under OPPS, brings higher reimbursement overall than reimbursement for free-standing sites. Because of the importance and sweep of the new regulations, which replace more general administrative rulings effective October 10, 2000, GNYHA is sponsoring a special member briefing on the rules. The briefing will be given by Dennis Barry, Esq., of the law firm Vinson & Elkins; Mr. Barry is widely regarded as a national expert on the regulations. The briefing is open to GNYHA members only. To register, call Barbara Marino at GNYHA.

### DOH Perinatal Survey Process

Date: Monday, August 7, 2000

Time: 2:00 p.m.–4:00 p.m.

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

This meeting, for GNYHA members only, will include a discussion of the New York State Department of Health's (DOH's) perinatal survey, which will be sent to GNYHA members on July 19, 2000. Representatives from the DOH Bureau of Women's Health will provide information and answer members' questions regarding completion of the survey. For more information, call Doris R. Varlese, and to register, contact Barbara Marino, both at GNYHA. ■

# House Passes Medicare Drug Bill with HCFA Reforms

On June 28, 2000, the U.S. House of Representatives passed the Medicare Rx Act of 2000 (H.R. 4680), by a vote of 217 to 214. The primary and most highly publicized purpose of H.R. 4680 is to provide Medicare beneficiaries with outpatient prescription drug coverage through Medicare+Choice plans or through private insurance plans that only cover prescription drugs. Beyond prescription drugs, however, H.R. 4680 contains provisions that could have a dramatic effect on the operation of the Medicare program. For instance, the legislation would create a new Medicare Benefits Administration (MBA) within the Department of Health and Human Services (HHS) that would be separate and distinct from the U.S. Health Care Financing Administration (HCFA). HCFA currently has the sole Federal responsibility for the administration of the Medicare and Medicaid programs. Under the bill, the new MBA would be responsible for the entire Medicare managed care (or "Medicare+Choice") program; the new outpatient prescription drug program created by the bill; and various demonstration projects, including programs of all-inclusive care for the elderly (or "PACE" programs), social health maintenance organizations (or "SHMOs"), and the Evercare program. In

addition, an Office of Beneficiary Assistance (OBA) would be created within the MBA, taking away from HCFA all responsibility for beneficiary outreach, eligibility, enrollment, grievance, and appeals activities. In addition, the OBA would create a Medicare Ombudsman to help beneficiaries deal with all aspects of the Medicare program. The bill would also create a Medicare Policy Advisory Board within the MBA that would be required to report directly to Congress annually, without Administration input, on the operations of the Medicare+Choice and prescription drug programs and make recommendations for changes. While the MBA would be a part of the U.S. Department of Health and Human Services, it would enjoy some independence. The Administrator and the Deputy Administrator would be appointed by the President, with the advice and consent of the Senate, for fixed, five-year terms that would overlap presidential administrations. In addition to creating the MBA, the bill also contains a number of provisions designed to help expedite reviews of Medicare coverage denials; to clarify when a beneficiary is liable for payment, repayment, and cost-sharing; and to provide enhanced funding for Medicare+Choice plans. President Clinton has vowed to veto H.R. 4680 in its present form. ■

## Support Grows for Teaching Hospital Preservation Act

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GNYHA's top legislative priorities for 2000, along with legislation authored by Congresswoman Nita Lowey and Congressman Jack Quinn that would provide full inflation, or "market basket," updates for hospitals in 2000 and 2001 (H.R. 3580). Senator Moynihan has gained the cosponsorship of 32 of his Senate colleagues for S. 2394, including his fellow New York Senator, Charles E. Schumer. Congressman Rangel has gained the cosponsorship of 63 of his colleagues, with 38 signing on as cosponsors in the month of June alone. GNYHA is grateful to the following New York members of Congress for joining with Congressman Rangel

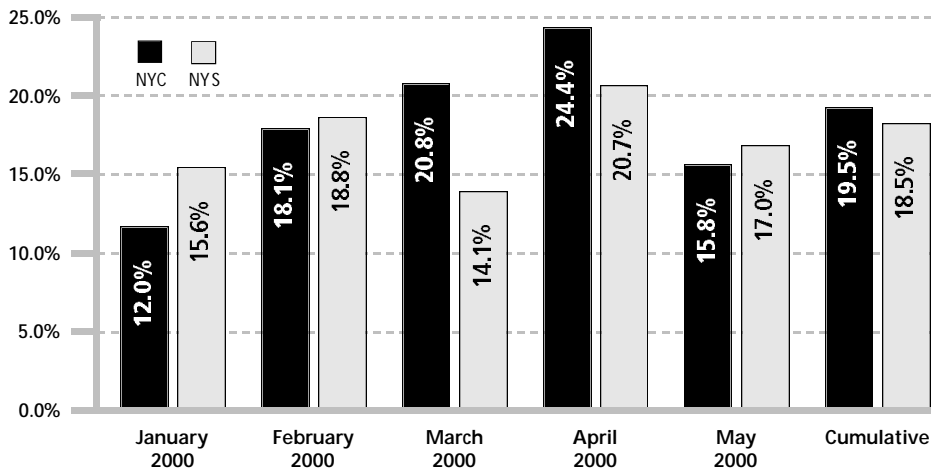
as cosponsors of H.R. 4239: Congressman Joseph Crowley, Congressman Eliot Engel, Congressman Michael Forbes, Congressman Benjamin Gilman, Congressman Maurice Hinchey, Congressman Peter King, Congresswoman Nita Lowey, Congresswoman Carolyn Maloney, Congressman Mike McNulty, Congressman Gregory Meeks, Congressman Jerrold Nadler, Congressman Major Owens, Congresswoman Louise Slaughter, Congressman Edolphus Towns, Congresswoman Nydia Velazquez, and Congressman Anthony Weiner. GNYHA is urging all New York members of Congress to sign onto H.R. 4239 without delay. ■

# Medicaid Clients Assigned to Mandatory Medicaid Managed Care

Automatic assignment ("auto-assignment") to a Medicaid managed care plan occurs when a client does not respond within 60 days after receiving a package, including enrollment materials, explaining that the client must choose a plan or be assigned to one. The State and

City follow up after the initial mailing with reminder notices. An auto-assigned Medicaid enrollee may change his or her health plan within 90 days of the effective date of enrollment. The chart below shows rates of auto-assignment for Medicaid clients subject to mandatory Medicaid managed care.

Mandatory Medicaid Managed Care Auto-Assignment Rates, January–May 2000, New York City and New York State



Source: New York State Department of Health, Monthly Auto-Assignment Statistics.

## House and Senate Pass Differing HMO Bills

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Reconciling differences between HMO reform legislation passed by the House and Senate earlier in this Congress. Democrats have refused to continue negotiations, arguing that the conference committee was not making sufficient progress. One provision of the legislation that passed the Senate on June 29 has caused great concern for GNYHA. Under the provision, a hospital would be required to notify a health plan with which it does not have a contractual relationship within two hours of stabilizing a health plan enrollee who has presented for emergency care. If the hospital notifies the plan in time and the plan does not respond within two hours, the plan will be obligated to pay for the services provided. On the other hand, if the hospital does not notify within two hours of stabilization, the plan will not be obligated to pay. GNYHA is concerned that the two-hour notification requirement does not give hospitals adequate time to notify a plan, particularly a

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## DOH to Send Perinatal Survey

In a recent conference call with GNYHA, the New York State Department of Health (DOH) announced that it will be sending its perinatal survey to every Chief Executive Officer, Chair of Pediatrics, and Chair of Obstetrics and Gynecology in all hospitals in New York State on July 19, 2000. The surveys will be due on or about September 8, 2000.

**Revised Perinatal System:** As reported in recent issues of Skyline News, 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. DOH

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## State GME Program Update

### Designated Priority Programs:

The New York State Council on Graduate Medical Education (COGME) has completed its review of the 45 applications from residency training programs seeking approval as Designated Priority Programs (DPPs). Thirty-three programs have been recommended to the New York State Department of Health (DOH) for approval; of the remaining programs, five were recommended for disapproval, four were not required to apply or withdrew, and three OB/GYN program applications are pending review by a panel of experts. All the programs that were recommended for disapproval failed to meet the DPP outcome requirement, whereby at least 55% of the program's graduates must be engaged in primary care practice. Letters from COGME advising program directors of their program's status were sent out last week.

### GME Incentive Pool:

DOH received data from 83 New York teaching hospitals in response to its survey request for those institutions wishing to participate in the GME Incentive Pool. The data collected will be used to distribute the \$54 million Year 3 funds as required under the Health Care Reform Act of 1996. The GME Incentive Pool rewards New York teaching hospitals and GME consortia that meet certain State GME policy goals, including reducing the number of non-primary care residents and increasing underrepresented minority participation in GME. DOH staff has completed its review of the data and has begun contacting hospital staff regarding data that need to be clarified. According to DOH, three-fourths of the hospitals will be contacted, and initial calls should be completed by mid-July. Letters were also sent to all teaching hospitals that did not submit data to verify that no data were received and that the hospital will, therefore, not be eligible to receive a distribution from the pool. ■

## DOH to Send Perinatal Survey

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recently circulated to GNYHA revised criteria and a revised outline of the review process, which GNYHA will circulate to members. DOH is now considering implementing a two-step perinatal redesignation process, whereby a hospital would indicate its requested level for both maternal and neonatal services on its survey. The first step would consist of a DOH review of the survey instrument submitted by a hospital and a preliminary designation. If a hospital did not agree with DOH's preliminary designation, the hospital would participate in a second level of review that would include a request for additional information as well as a site visit. Other facilities, including those that seek to be designated as regional perinatal centers (RPCs), as well as those that are seeking a two-level increase in their designations, would also undergo site visits. DOH would then make a final determination regarding a hospital's level. For the first time, DOH is planning to assign a single-level designation for both maternal and neonatal services.

**Site Visits:** DOH is planning to conduct site visits to hospitals seeking designation as RPCs and certain Level 1, 2, and 3 hospitals in the fall of 2000. DOH expects to send letters regarding final RPC designations and letters regarding preliminary designations for Level 1, 2, and 3 hospitals in the winter of 2001, with final designations made during the first half of 2001.

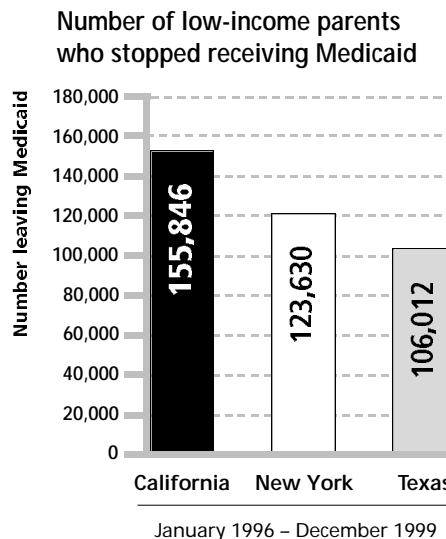
**GNYHA Briefing:** GNYHA is planning to host a briefing session on August 7, 2000, at which representatives from the DOH Bureau of Women's Health will provide information regarding the survey process and will be prepared to answer members' questions. (See "Upcoming GNYHA Briefings," on page 2.) ■

## Many Parents Who Move from Welfare to Work Are Losing Health Insurance

According to a report by the health care consumer group Families USA, nearly 1 million low-income, working parents in 15 states have lost Medicaid coverage since the advent of welfare reform in 1996. The report, released in June 2000, was based on statistics provided by the 15 states, including New York, with the largest number of uninsured adults. The other states examined in the report are Arizona, California, Florida, Georgia, Illinois, Louisiana, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Texas, and Virginia. Altogether these states account for 70% of the uninsured nonelderly adults in the United States.

During the four-year period from January 1996 through December 1999, New York experienced the second greatest decline in the nation in the number of low-income parents enrolled in Medicaid. In the past two years, from January 1998 to December 1999, New York experienced the largest numerical decline in

parents' Medicaid coverage. The main reason for the decline appears to be that parents are erroneously losing coverage when they move from welfare to work. Many of these parents do not receive health benefits in their new jobs. ■



Source: Families USA, "Go Directly to Work, Do Not Collect Health Insurance: Low-Income Parents Lose Medicaid" (Washington, D.C., June 2000).

### STAFF

**Tracy E. Miller, Esq.** has joined the staff of GNYHA as Vice President for Quality and Regulatory Affairs. She will focus on issues such as health care quality and medical errors; health disparities; the protection of human subjects in research; and regulatory, policy, and ethical issues related to health care information on the Internet. Ms. Miller comes to GNYHA from the Mount Sinai School of Medicine, Department of Health Policy, where she had been Clinical Associate Professor since 1997 and Visiting Scholar from 1995 to 1997. She was also Project Director, National Quality Forum Planning Committee, in 1998-99, and Executive Director, New York State Task Force on Life and the Law, from 1985 to 1995, during which time the State adopted the Task Force's proposals addressing such issues as do-not-resuscitate orders and health care proxies. In addition, Ms. Miller is currently Chairperson, Health Law Section, New York State Bar Association. She is a graduate of Brown University and Harvard Law School. ■

## House and Senate Pass Differing HMO Bills

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plan with which the hospital does not interact on a regular basis. In addition, emergency physicians at busy urban or suburban emergency departments cannot

spend time on the phone when more and more patients are in need of care. GNYHA is working with the American Hospital Association and the Healthcare Associa-

tion of New York State on developing alternatives to this provision. No New York members of Congress are assigned to the HMO reform conference committee. ■