



MAY 28, 2007

# Skyline news

REPORTING ON NEW YORK'S HEALTH CARE NEWS

## CMS Issues Proposed Rule to Eliminate Federal Medicaid Payments for GME

Last week, pursuant to President George Bush's proposed budget for the Federal fiscal year starting October 2007, the Centers for Medicare & Medicaid Services (CMS) issued a proposed rule that would eliminate Federal Medicaid matching payments for the costs of graduate medical education (GME). According to the proposed rule, the Federal Medicaid statute alleges that Federal financial participation (FFP) is available to the states only for "a percentage of amounts expended ... for medical assistance under the state plan," and does not explicitly provide for the payment of GME. In particular, the proposed rule states that "GME is not

a health service that is included in the authorized coverage package," nor is GME recognized as "a component of the cost of Medicaid inpatient and outpatient hospital services." Therefore, according to the proposed rule, states may not receive FFP for these costs.

The proposed rule thus would specify that states may not include GME payments in a Medicaid State Plan, including payments through the fee-for-service system as well as separate GME payments for Medicaid managed care patients that are authorized under a specific section of current regulations. Such pass-through payments for Medicaid man-

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## New York Health Care Spending, Relative to State Economy, at U.S. Median Medicaid Spending Growth per Enrollee Is Less Than Inflation Level

New York spends only 14% of its gross domestic product (GDP) on health care, ranking it twenty-fifth among the 50 states in terms of total health expenditures. New York maintains this modest ranking despite the size of its Medicaid program, which is the biggest in the country and is characterized by a large scope of services and generous eligibility—both the result of deliberate policy choices. Moreover, New York's choice to support such a large program has benefited local taxpayers—families and businesses—

by drawing billions of dollars in Federal aid, which substitute for private-sector spending. This "substitution effect" is evident in New York's ranking of 35 out of 50 states for private-sector health care spending per capita and 25 out of 50 for total health care spending as a percentage of its GDP.

In addition, despite assertions that Medicaid spending growth in New York has spiraled out of control, that growth has, over the last few years, been driven almost entirely by

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## GNYHA and 1199 SEIU Launch Major Campaign for Universal Health Coverage

On May 15, the Healthcare Education Project (HEP)—a joint initiative of GNYHA and 1199 SEIU United Healthcare Workers East—released a television advertisement to raise public awareness about the need to provide health insurance for all New Yorkers. The ad, featuring a crowd standing in the rain with umbrellas to symbolize health coverage, is narrated by award-winning actress Blythe Danner and will run statewide for several weeks. Reflecting the intention to work on this issue nationwide, a New Jersey version of the ad is also running statewide in New Jersey. To view the ad, go to GNYHA's Web site, [www.gnyha.org](http://www.gnyha.org).

HEP is also conducting a statewide direct mail initiative encouraging New Yorkers to engage policymakers and to join the conversation on universal coverage.

In a related effort, GNYHA and 1199 SEIU joined a number of health care stakeholders

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An image from the Healthcare Education Project direct mail campaign promoting universal health coverage.



**It's not too late to register for the . . .**

## **GNYHA 2007 Annual Reception and Award Ceremony • May 31, 2007 • 5:30 p.m.**

*Dr. Spencer "Spike" Foreman to Receive GNYHA Lifetime Achievement Award*

GNYHA's 2007 Annual Reception and Award Ceremony will be held this Thursday evening, May 31, at the Nokia Theatre in Times Square, at 5:30 p.m. Invitations have been mailed to all members. If you have not yet responded and would like to attend, please contact Adriana Ramos for immediate reservations at [aramos@gnyha.org](mailto:aramos@gnyha.org) up to the day of the event.

**Lifetime Achievement Award:** At this year's reception, GNYHA's Lifetime Achievement Award will be presented to Spencer "Spike" Foreman, M.D.—a current GNYHA Board member, former GNYHA Board Chairman, and President of Montefiore Medical Center. GNYHA is tremendously proud of Dr. Foreman's many accomplishments and looks forward to having you join us in honoring him at this special event on May 31. ■

## Ways and Means Health Subcommittee Holds Hearing on Medicare Fee-for-Service Providers

### GNYHA Member CEO Testifies on Behalf of Teaching Hospitals

On May 16, the U.S. House Ways and Means Health Subcommittee held a hearing on Medicare fee-for-service providers. The purpose of the hearing was to take a "thoughtful look" at the payment systems for hospitals, nursing homes, home health, and long term care hospitals and inpatient rehabilitation facility providers. The hearing underscored the reality that lawmakers are looking at all providers as they attempt to identify potential areas of savings in order to realize several expensive legislative priorities this year, including the reauthorization and expansion of the State Children's Health Insurance Program and a physician payment adjustment.

GNYHA Board member Stanley Brezenoff, CEO of Continuum Health Partners, Inc., testified on behalf of GNYHA and the Association of American Medical Colleges (AAMC). Mr. Brezenoff warned against the looming physician shortage and the shortsightedness of the Bush Administration's plans to cut billions of dollars in Medicare and Medicaid funding from the nation's teaching hospitals. Mr. Brezenoff noted that the nation will have a shortage of at least 55,000 physicians by the year 2020. In response to this crisis, the AAMC has called for a 30% increase in U.S. medical school enrollment by 2015, which would result in an additional 5,000 new physicians annually.

"Given the amount of time it takes to educate and train a physician . . . 2020 is now," said Mr. Brezenoff. "Unfortunately, at a time when the mission of our teaching hospitals to train tomorrow's doctors has never been more important, they face severe funding cuts by the Bush Administration."

The President's budget proposes to cut

more than \$100 billion from Medicare and Medicaid programs over five years. Of those cuts, two are targeted solely at teaching hospitals: **1)** the elimination of Medicare indirect medical education payments associated with treating Medicare managed care ("Medicare Advantage") beneficiaries; and **2)** the elimination, through regulatory action, of Medicaid funding for graduate medical education.

Mr. Brezenoff also testified that, in light of the physician shortage the U.S. faces, the AAMC and GNYHA strongly urge Congress to lift the cap on the number of residents for which teaching hospitals may receive Medicare reimbursement.

Other witnesses at the hearing included American Hospital Association President Rich Umdenstock, American Federation of Hospitals President Chip Kahn, and American Health Care Association President Bruce Yarwood. Mary Beth Walsh, CEO of the Burke Rehabilitation Hospital (a GNYHA member) testified on behalf of the American Medical Rehabilitation Providers. Prior to the provider panel's presentations, Herb Kuhn, Acting Deputy Director of the Centers for Medicare & Medicaid Services, and Mark Miller, Executive Director of the Medicare Payment Advisory Commission, also testified. ■

### UPCOMING GNYHA MEMBER BRIEFING

#### **Immigration Law**

**Date:** Tuesday, June 5, 2007

**Time:** 2:00 p.m.—4:00 p.m.

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

This briefing will provide an overview of various immigrant and non-immigrant statuses that allow for employment authorization. It will also cover Form I-9, the employment eligibility verification requirement. The briefing will be led by Stephen M. Perlitsh, Esq., an attorney who works extensively on immigration issues with health care providers, advising clients on both employment and family-based matters, including H-1B working visas, National Interest Waivers, and PERM cases. For more information or if you would like a topic added to the meeting agenda, contact Deborah Brown ([brown@gnyha.org](mailto:brown@gnyha.org)), and to register, contact Cynthia Araujo ([araujo@gnyha.org](mailto:araujo@gnyha.org)), at GNYHA. ■

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On May 21, 2007, the appointments of three new members and the reappointments of four current members to the Medicare Payment Advisory Commission (MedPAC) were announced. The three new members are **Thomas M. Dean, M.D.**, a board-certified family physician in South Dakota and former president of the National Rural Health Association; **Jack C. Ebeler**, a consultant in health care policy, focusing on the Federal policy environment and the changing health care marketplace; and **Bruce Stuart, Ph.D.**, a professor and Executive Director of the Peter Lamy Center on Drug Therapy and Aging at the University of Maryland, Baltimore. The reappointed members are **John M. Bertko, F.S.A., M.A.A.A.**, Vice President and Chief Actuary, Humana, Inc.; **Francis J. Crosson, M.D.**, Executive Director, the Permanente Federation, LLC; **Arnold Milstein, M.D. M.P.H.**, Medical Director, Pacific Business Group on Health; and **William J. Scanlon, Ph.D.**, health policy consultant. ■

# HEAL/F-SHRP RFA Released for Facilities Named in Berger Commission Report

The NYS Department of Health (DOH) and the Dormitory Authority of the State of New York (DASNY) recently released a request for applications (RFA) to receive funding to implement the mandated requirements of the Commission on Health Care Facilities in the Twenty-first Century (known as the “Berger Commission”). The RFA is targeted to the 81 facilities named in the Berger Commission report that are required to close, reorganize, or perform construction on their facilities or services. The financial assistance will be drawn from funding provided under both the Health Care Efficiency and Affordability Law of New York (HEAL NY) and the Federal-State Health Reform Partnership (F-SHRP). No specific dollar amount for overall funding is identified in the RFA, although the press release accompanying the RFA notes that up to \$550

million in the current fiscal year is available.

The RFA states that the application for funding is to be submitted with a plan for complying with the applicable Berger Commission recommendation. The RFA also states that this application process is intended to be “the primary and perhaps only opportunity for those facilities to request financial assistance for complying with Commission requirements.” The applications are due by July 16, 2007. However, the RFA notes that applications will be reviewed on a rolling basis as of the day the RFA was released. In addition, the RFA notes that applications received earlier in the review period “stand a greater likelihood of being reviewed in a manner that will ensure access to this dedicated pool of funds.”

The basis of each funding award will be a determination regarding how much of the implementation can be achieved with other than public funds. According to the RFA,

DOH and DASNY “will review applications to determine the minimum public investment needed for the proposed project” and will determine how much of the implementation can be supported using other resources, including the applicant’s own resources and borrowing. ■

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## Universal Health Coverage

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from around the country—including Kaiser Foundation Hospitals, Allina Hospitals and Clinics, Catholic Healthcare West, and Daughters of Charity Health System—to create the Partnership for Quality Care (PQC). This national coalition of health care labor and management, launched on May 2, is dedicated to the reform and improvement of the nation’s health care system, including universal coverage at the Federal level. ■

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## CMS Issues Proposed Rule to Eliminate Federal Medicaid Payments for GME *continued from page 1*

aged care enrollees are not permitted for other purposes. In addition, the proposed rule would change the calculation of the “upper payment limit” (UPL) in a way that would lower the amounts that states could pay to teaching hospitals. Currently, states may make Medicaid payments to providers up to a calculation of the amount that Medicare would have paid for the same service. The UPL calculation currently includes Medicare payments for direct GME and indirect medical education (IME) costs. The proposed rule would eliminate direct GME payments from the calculation of the amount Medicare would have paid. The rule would leave IME in the UPL calculation because IME is defined as a payment for direct patient care costs.

In the context of a discussion of Medicare, the proposed rule references studies from the 1980s concluding that the nation had a surplus of physicians. The proposed rule ignores the numerous recent independent studies, including one performed for the Federal Council on GME, that have identified an impending shortage of physicians and called on all parties to ensure that medical educa-

tion in all its forms is supported.

CMS estimates a savings from the proposed rule of just \$140 million in Federal fiscal year (FFY) 2008, growing to \$460 million in FFY 2012, but notes that it has no accurate way of identifying precisely how much states may be paying in Medicaid GME each year. This is a severe underestimate of the impact. In New York alone, the value of hospital payments with a GME label is \$1.2 billion per year (gross), half of which would be placed at risk were the proposed rule to be adopted.

**Congressional Activity:** A provision that would block, for one year, the implementation of the GME rule and the proposed inter-governmental transfer rule has been included in the revised Iraq War Supplemental conference agreement that was passed by the House and Senate on May 24. Without statutory language, the implementation of those rules would result in \$4.75 billion in losses to New York’s teaching and public hospitals over the next five years alone.

GNHYHA—with the American Hospital Association, the Association of American Medical Colleges (AAMC), the National Asso-

ciation of Public Hospitals, the Healthcare Association of New York State, HHC, and the Washington offices of Mayor Michael Bloomberg and Governor Eliot Spitzer—has been aggressively advocating for a moratorium and is very pleased that this critical provision was included. GNYHA has been working closely with the New York delegation to underscore the importance of this issue. Additionally, Continuum Health Partners CEO Stanley Brezenoff, on behalf of GNYHA and the AAMC, highlighted this issue in his testimony before a U.S. House Ways and Means Health Subcommittee hearing on May 16 (see story on page 3).

President Bush is expected to sign the revised version of the agreement into law.

The inclusion of this language would not have been possible without the strong support and advocacy of the New York delegation and, in particular, Rep. Charles Rangel and Senator Charles Schumer, as well as NYS’s four Appropriations Committee members: Reps. Nita Lowey, Jose Serrano, Maurice Hinchey, and James Walsh. GNYHA is most appreciative of their efforts. ■